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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----x
4 UNITED STATES OF AMERICA,

v.

20 CR 330 (AJN)

5 GHISLAINE MAXWELL,

6 Defendant.

Jury Trial

7 -----x
8 New York, N.Y.
9 December 17, 2021
10 8:56 a.m.

Before:

11 HON. ALISON J. NATHAN,

12 APPEARANCES
13 DAMIAN WILLIAMS
14 United States Attorney for the
15 Southern District of New York
16 BY: MAURENE COMEY
17 ALISON MOE
18 LARA POMERANTZ
19 ANDREW ROHRBACH
20 Assistant United States Attorneys
21 HADDON MORGAN AND FOREMAN
22 Attorneys for Defendant
23 BY: JEFFREY S. PAGLIUCA
24 LAURA A. MENNINGER
-and-
BOBBI C. STERNHEIM
-and-
COHEN & GRESSER
BY: CHRISTIAN R. EVERDELL
25 Also Present: Amanda Young, FBI
Paul Byrne, NYPD
Sunny Drescher,
Paralegal, U.S. Attorney's Office
Ann Lundberg,
Paralegal, Haddon Morgan and Foreman

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1 (Jury not present)

2 THE COURT: Matters to take up, from my perspective,
3 it's obviously a long list of prior inconsistent statements I
4 need to go through. Before that, anything, counsel?

5 MS. MENNINGER: Your Honor, there is one witness that
6 we have under subpoena who has not been in contact with us that
7 we very much would like to call as a witness. I can say the
8 name out loud or we can have a sidebar, but it is one of the
9 witnesses about whom the government moved to preclude their
10 testimony and your Honor ruled last night that we would be
11 permitted to put that testimony on. All of our attempts to
12 have communication with this witness after the service of
13 subpoena have gone unresponded to. So I think, at this point,
14 we have no choice left except to ask to have intervention of
15 the marshals to bring that witness to court to testify.

16 THE COURT: You'll have to file something.

17 MS. MENNINGER: Yes.

18 THE COURT: Ms. Comey, anything on that?

19 MS. COMEY: Your Honor, this is the first time hearing
20 of this. We'll have to see whatever is filed.

21 THE COURT: Obviously, if you've got authority for how
22 to proceed, you need to put that in quickly because we're not
23 delaying trial.

24 MS. MENNINGER: Secondly, your Honor, with respect to
25 the pleading that was filed yesterday or the day before

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1 asserting a Fifth Amendment privilege, I'm not sure whether
2 that --

3 THE COURT: I don't have a pleading, I have --

4 MS. MENNINGER: Well, a letter from a third party.

5 That person also was under our subpoena. I don't know if your
6 Honor views that as sufficient record on a Fifth Amendment
7 assertion. We have not released the person from their
8 subpoena. It wasn't styled as a motion to quash. So I'm a
9 little bit unsure. Otherwise, we would like that witness to
10 testify, as well.

11 So, if your Honor deems it necessary to have a further
12 record on it or a formal pleading from that witness, the
13 witness is represented by counsel, Compton counsel, a former
14 AUSA. So I don't know what their intentions are with regard to
15 their client testifying beyond what the Court received in that
16 letter.

17 THE COURT: As I said yesterday, I don't have an
18 application. And I asked if you have an application.

19 MS. MENNINGER: I don't.

20 THE COURT: And now the application is, Judge, tell me
21 what you think we should do.

22 MS. MENNINGER: No, it would be similar. We have a
23 valid subpoena on the person and I would ask to enforce the
24 subpoena and have the witness come testify. And if --

25 THE COURT: Have you communicated with counsel as to

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1 whether, in lieu of appearing and outside of the presence of
2 the jury, they invoke their Fifth, whether either a declaration
3 or a letter from counsel making a representation and the like,
4 I think the letter said you rejected that, if I remember
5 correctly.

6 MS. MENNINGER: No, your Honor. The lawyer requested
7 that we withdraw the subpoena and we said we're not withdrawing
8 the subpoena, we want your client to testify, and if you have
9 an issue with enforcement of the subpoena, you should address
10 it to the Court, and then the lawyer submitted that particular
11 letter to the Court. I didn't think that an email from a
12 lawyer was sufficient to invoke.

13 THE COURT: It didn't ask the Court to do anything.
14 The Court is not in the business of just --

15 MS. MENNINGER: I understand.

16 THE COURT: -- reading letters and then going out in
17 the world and doing things. It's an adversary process. I act
18 on applications.

19 MS. MENNINGER: Then we'll ask for the subpoena to be
20 enforced as to that witness, too.

21 THE COURT: Okay. Ms. Moe.

22 MS. MOE: Yes, your Honor. On that score, I wanted to
23 note the government agrees with the Court, I think the ball is
24 in defense counsel's court. If they want the witness to come
25 to court and invoke in front of the jury --

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1 THE COURT: It does not happen that anyone invokes in
2 front of the jury. All we would be doing is, outside the
3 presence of the jury, they come, questions asked, invoke, and
4 then they go home. We could do that if that's what the parties
5 want to do – that seems like an enormous waste of time – or
6 counsel can make an application as to how to proceed after
7 consulting with counsel for the witness. I mean, it's your
8 witness. If you want to send the marshals, despite -- or make
9 an application to send the marshals despite the witness's
10 counsel indicating to you that they want to invoke the Fifth,
11 then I suppose you can do that, but --

12 MS. MENNINGER: Your Honor, I didn't ask for that with
13 respect to that witness. I asked for it for one who refused to
14 communicate with us. I will make a formal application. I
15 understand, your Honor.

16 THE COURT: Okay.

17 MS. COMEY: Your Honor, we're happy to confer with the
18 defense on this issue to the extent the defense wants to make a
19 record that this witness would have invoked, we're happy to
20 confer to the extent it would be helpful about how to make that
21 record.

22 THE COURT: That's precisely why I raised it last
23 night and asked if there was an application, but here we are.
24 But again, we're not delaying trial, so this all needs to
25 happen yesterday.

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1 It seems to me, again, I've indicated how I think this
2 proceeds, but I need counsel to tell me what they're
3 requesting. All I have is a letter from the lawyers saying
4 that they have a defense subpoena and their witness would
5 invoke. If the request is that you want the witness to come
6 and invoke formally outside the presence of the jury, we can do
7 that. If the request is some substitution for that, confer
8 with the government and make a proposal to the Court.

9 Okay. What else?

10 MS. MENNINGER: Your Honor, I've conferred with the
11 government a couple times on redactions. I tried that
12 yesterday, I tried it again this morning. I don't have an
13 answer back yet from them, but I hope we can have one soon on
14 some of the exhibits that are outstanding. That's something
15 else that's outstanding.

16 MR. ROHRBACH: Yes, your Honor, we've been trading
17 views on redactions. We'll finalize them and submit them to
18 the Court shortly.

19 THE COURT: Yes, Ms. Sternheim?

20 MS. STERNHEIM: Judge, I wanted to inform the Court,
21 as the government is aware --

22 THE COURT: I'm not sure your mic is on.

23 MS. STERNHEIM: Now it is. There were technical
24 issues with regard to providing testimony from Mr. Hamilton in
25 England, and we viewed it to be just far too complicated.

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1 There was no way that documents could be shown to him without
2 turning off all the equipment and depriving the public of
3 viewing him while he looks at certain things. So we have
4 decided to withdraw our calling him as a witness.

5 THE COURT: Okay.

6 MS. POMERANTZ: Your Honor, I was here in the
7 courtroom while that was happening, and while there were some
8 technical challenges, we were prepared to proceed. After
9 consulting with the defense, they indicated that they were no
10 longer prepared to call him. So I just wanted to be clear for
11 the record that, from our perspective, this is not an issue of
12 technological difficulties, but instead that was -- my
13 understanding was they decided to not proceed and call
14 Mr. Hamilton.

15 THE COURT: I guess, just for record preservation
16 purposes, Ms. Sternheim, is there anything that you're
17 requesting be done technologically? We have our tech folks
18 here, they're incredibly capable. Is there something you're
19 requesting be done?

20 MS. STERNHEIM: No, I worked with the tech folks and
21 there were things beyond their control or ability to do and we
22 just viewed that it would be far too complicated.

23 I would also add, as I told the government, that
24 during the process, Detective Byrne kept calling Mr. Hamilton,
25 who is not well, and it was somewhat unnerving. So we've made

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1 a decision not to call him.

2 THE COURT: Okay.

3 MS. POMERANTZ: Your Honor, just to clarify, I don't
4 think that's an accurate representation as to Detective Byrne.

5 And I, again, would note that the very capable tech
6 folks were here working and troubleshooting the issue. And I
7 understand the decision not to call Mr. Hamilton was not with
8 the technological issues, but instead a decision that defense
9 counsel has made.

10 MS. STERNHEIM: We could go on all day, Judge, but
11 suffice it to say, we're not calling Mr. Hamilton.

12 THE COURT: You're not calling Mr. Hamilton and you
13 have no additional application regarding being able to call him
14 remotely with public access at the same time. Your concern is
15 there would be a limitation of public access during his
16 testimony, and for that reason, you've decided -- well, that's
17 the case, and you've decided not to call him.

18 MS. STERNHEIM: That is correct. Thank you.

19 THE COURT: All right. Thank you. Anything else?

20 MS. COMEY: Your Honor, just in terms of timing, there
21 is one brief piece of evidence that we may seek to introduce as
22 rebuttal evidence. I think it would take 10 minutes, at most,
23 to get in. We just need to know whether we should have those
24 witnesses — who are basically custodians — available at the end
25 of today or if they should be available Monday.

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1 THE COURT: I think it's today. Ms. Menninger.

2 MS. MENNINGER: I don't think so, your Honor. I don't
3 think we'll be able to rest until Monday morning.

4 THE COURT: That's because there is some small issue
5 you indicated or what?

6 MS. MENNINGER: There is, your Honor.

7 There also are a number of stipulations that are
8 outstanding between the parties. There are some other
9 documents that we are seeking to get custodians and
10 stipulations to, and they're not ready today. So I understand
11 your Honor wants to move this forward. The defense has had its
12 case for a day so far. I don't think we are delaying --

13 THE COURT: I'm not suggesting you are. I just
14 always -- my approach is I want to use the time that we have.
15 And needless to say, there is a pandemic. We don't want to
16 unnecessarily delay and we want to move forward as quickly as
17 we can using the time we have allocated. So if we have time
18 today to get everything in, then we'll do it.

19 MR. EVERDELL: Your Honor, on the issue of timing, I
20 think we mentioned yesterday we may have one more witness who
21 can only come on Monday. It is possible that we will call him.
22 So we will need to have him on Monday, potentially.

23 MS. COMEY: Your Honor, we don't know who that witness
24 is.

25 THE COURT: Who is that witness and why can't they be

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1 here today?

2 MR. EVERDELL: Because they're coming from the U.K.
3 and they can't be here until Monday.

4 THE COURT: Who is it and how long?

5 MR. EVERDELL: How long is the witness going to be?
6 It would be a very short witness. And this is related to the
7 Kinnerton Street property. I think just today we got a
8 declaration from him, which I can hand over to the government.
9 They got this signed this morning about what his testimony
10 would be. And I could provide it to the Court, as well.

11 I would like it in front of me, but I could generally
12 summarize, don't quote me on this, but he is the owner of the
13 Nags Head Pub, which is right across the street from the
14 Kinnerton Street residence. He owned that for the whole time
15 that's relevant here. He knew the previous owners. He always
16 saw them there. And he met Ghislaine Maxwell when she took
17 ownership of the property, and he knew the prior owners to be
18 living there, and then he knew Ghislaine to be living there
19 when she bought the property. And he goes there every day. He
20 owned the pub, he had a flat above the pub that looked across
21 to the Kinnerton Street property, and he can verify the fact
22 that she didn't take occupancy until after she purchased the
23 apartment.

24 MS. COMEY: Your Honor, I would just note that the
25 defense has had an extraordinary amount of time to prepare its

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1 defense case. We noted early last week that we were going to
2 rest. We rested on Friday. They then had five full days,
3 including three business days, to prepare. So we would object
4 to holding the case over to Monday for a new witness.

5 MR. EVERDELL: This is a witness that is
6 extraordinarily relevant and sometimes things develop during
7 trial and we need to get witnesses to address issues that come
8 up at trial. We were able to find this person and he's willing
9 to come, even those he's 81, because he wants to come and
10 provide this testimony if it's required.

11 This is extraordinarily relevant, especially with the
12 issue that came up with the property records and the issue
13 raised to the Court. He can directly speak to that issue. His
14 testimony is relevant for a critical issue in this case, which
15 is whether or not this -- the events that Kate described could
16 have even taken place at the time they took place, which she
17 alleges they took place in, and he should be heard.

18 MS. COMEY: Your Honor, I just note this is the
19 defense's third bite of this particular apple and it emphasizes
20 the prejudice to us of delayed disclosure. We will have no
21 opportunity to investigate further at this point.

22 THE COURT: I mean, what we talked about yesterday was
23 inclusion of documents that show ownership; right?

24 MR. EVERDELL: That's correct, your Honor.

25 THE COURT: And I think I said those could come in.

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1 MR. EVERDELL: You did.

2 THE COURT: Along with, I presume the government would
3 seek to introduce the testimony?

4 MS. COMEY: Yes, your Honor.

5 MR. EVERDELL: That's right, your Honor.

6 THE COURT: So a new witness --

7 MR. EVERDELL: Your Honor, I did not anticipate that
8 the issue between ownership versus occupancy was going to be
9 such a relevant issue, and so given that that came up in the
10 course of discussing what the stipulation --

11 THE COURT: Just to be clear, I considered that as to
12 whether to allow you to introduce ownership documents. I'm
13 allowing you to introduce ownership documents. Arguably, they
14 were not relevant or marginally relevant, but a 403 issue
15 because of the complications of ownership. If you can put in
16 the ownership documents on stipulation as to the timing of
17 ownership, I'm allowing that. It's not a basis -- because I
18 almost excluded it, but didn't, that's not a basis to call a
19 new witness.

20 MR. EVERDELL: Your Honor, the stipulation would allow
21 us to put in the ownership documents and the Court itself
22 raised that there is an issue with residency or occupancy.

23 THE COURT: I raised that in questioning whether the
24 ownership documents were relevant. I'm allowing the ownership
25 documents in. That's not a basis to call a new witness.

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1 That's just saying, oh, Judge has a good point, maybe we could
2 strengthen this, I'm going to propose a new witness and delay
3 trial. No.

4 MR. EVERDELL: Your Honor, we're not delaying trial.
5 We only had one day of defense case. We're allowed to put
6 on --

7 THE COURT: You're announcing a new witness simply
8 because I've questioned the relevance of the ownership
9 documents by asking if they showed ownership or residency,
10 because I thought, well, if it's just ownership, maybe it's not
11 relevant, but I'm letting them in. If I weren't letting them
12 in, I suppose you'd have a point.

13 MR. EVERDELL: Your Honor, the way the stipulation I
14 understand is going to be worded with the government allowing
15 admitting the testimony from Ms. Maxwell's testimony, they will
16 be arguing to the jury that that shows that she didn't reside
17 there, that the ownership records don't show residency, and you
18 can infer from that that maybe she was there at the time
19 period.

20 THE COURT: Is that deposition transcript new
21 information to you? You weren't aware that your client --

22 MS. MENNINGER: It was a property deposition that was
23 taken in 2019, a slip and fall, and she was deposed as a
24 third-party witness. They didn't give it to us. We still
25 don't have the entire deposition. So yes, your Honor, it is

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1 new to us. And what she said in that deposition is something
2 like '92 to '93. She didn't have documents in front of her.
3 She was being inquired in 2019 about when she lived someplace
4 in the early '90s, and she made a '92 comment, '93, according
5 to the portion that was provided to us.

6 THE COURT: You'll provide the transcript.

7 MS. COMEY: We already have, your Honor. We produced
8 the entire transcript as discovery last week when we realized
9 that this might be relevant.

10 MR. EVERDELL: Given we got there last week, we are
11 trying now to address this issue with a witness that has
12 relevant testimony to the very issue.

13 MS. COMEY: Your Honor, I would note this is a public
14 document that is available on a New York State public website.

15 THE COURT: I have a rule: You have your next witness
16 or you rest. On this issue, simply because I raised a question
17 and the government has a response, we're not delaying trial.
18 So we'll see where we are, but if otherwise the case closes
19 today, it closes today. I'm not delaying trial on this issue
20 because I let in what you sought to have let in.

21 MR. EVERDELL: I think, your Honor, that on the issue
22 of whether we're going to rest today, we still have the issue
23 of whether the marshal is going to be able to produce one of
24 the witnesses that we want that we put on the valid subpoena.
25 So we're going to be going over to Monday probably anyway. If

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1 we're going to do that, I think we should have the ability to
2 call this witness.

3 THE COURT: When did you start attempting to contact
4 this witness?

5 MR. EVERDELL: We issued a subpoena to her, and I
6 don't have the dates off the top of my head, your Honor, I can
7 find that out for you.

8 THE COURT: Two and a half weeks ago?

9 MR. EVERDELL: I think that's when we issued the
10 subpoena.

11 THE COURT: And you've had no contact?

12 MR. EVERDELL: We've been trying to contact her, but
13 no.

14 MS. MENNINGER: We gave her a letter with all of our
15 contact information contemporaneous with our subpoena. Every
16 witness that we have subpoenaed has been in touch with us, they
17 have called our paralegal, et cetera.

18 THE COURT: But you haven't raised this until now.

19 MS. COMEY: That's exactly the point, your Honor. The
20 defense has had extensive time to raise this issue and they are
21 raising it at the 11th hour when they could have raised it long
22 in advance when all of the other witnesses they subpoenaed were
23 in touch with them and this one was not.

24 MR. EVERDELL: Your Honor, look, if the government is
25 willing to agree to a stipulation as to this witness's

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1 testimony, we can consider that. We don't have to delay trial.
2 But I think this witness has relevant testimony.

3 THE COURT: Which witness is it?

4 MR. EVERDELL: The one who can only come from the U.K.
5 on Monday. I'm not talking about the marshals issue, I'm
6 talking about the witness from the Nags Head Pub. If they're
7 willing to agree to a stipulation, we could probably do it that
8 way, that wouldn't delay anything, but I think this is relevant
9 information.

10 MS. COMEY: Your Honor, I was talking about the
11 marshal issue.

12 MR. EVERDELL: I'm sorry.

13 MS. COMEY: With respect to the marshal issue, we
14 received absolutely no materials from the defense about
15 statements that this witness has made, we have no idea what
16 this witness would say on the stand, so we would not be able to
17 stipulate to anything.

18 THE COURT: Which witness have you subpoenaed but
19 heard nothing from for weeks that I'm hearing about for the
20 first time?

21 MS. MENNINGER: Her name is Kelly.

22 THE COURT: Why am I hearing about it for the first
23 time now?

24 MS. MENNINGER: Your Honor, there has been a lot going
25 on. I understand that your Honor runs a tight ship. I think

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1 that we've all been working very diligently to present a
2 defense in this case. We have honored deadlines that are
3 issued with very short notice, we have conferred repeatedly, we
4 are trying to work out stipulations for a number of witnesses.
5 I understand trying to run the trial quickly and efficiently,
6 but to be honest, your Honor, it is a lot of work.

7 THE COURT: I am aware of that, Ms. Menninger. My
8 point is a nonresponsive witness is not a little thing.

9 MS. MENNINGER: There have been -- I mean, I don't
10 know the number, but 40 witnesses, your Honor. We are
11 working -- we've been flying people across the country, across
12 the pond. Our client's life is on the line and we're being
13 given one day it to put on a defense, one and a half days, and
14 there is one witness that we're having problems with. We're
15 not asking for some weeks' long delay.

16 THE COURT: So far, I have nothing.

17 MS. MENNINGER: I have made an oral application, your
18 Honor. I understand we will get someone working on a written
19 one right away.

20 THE COURT: Give me a written application, give me a
21 proposed order within a half an hour.

22 MS. COMEY: Your Honor, I need to resist the
23 characterization that the defendant has just made. The defense
24 has had an extraordinary amount of time between the resting of
25 the government's case and putting on their case. They have had

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1 five full days, including three business days. They had extra
2 days' notice that we were going to rest on Friday of last week,
3 and they had plenty of time in advance of trial to plan for
4 this. So we strongly disagree with the suggestion that defense
5 counsel has been unduly rushed here.

6 MS. MENNINGER: I can go back and forth on this, as
7 well, your Honor.

8 THE COURT: We're not going to go back and forth. The record
9 is what it is. There was a five-day, three-business-day
10 break between the close of the government's case. The record
11 will reflect when you learned when the government will likely
12 rest, the record will reflect what you said regarding when you
13 learned of a nonresponsive witness, and the record will reflect
14 that I will take an application within a half an hour with an
15 opportunity for the government to respond all in the interest
16 of conforming to my standard practice, which is everybody has
17 their next witness or be prepared to rest or bring in a
18 different witness.

19 Now, we'll take it as it comes. What I'm learning,
20 what is new information to me today, which is different than
21 yesterday, when we knew when I was informed that the defense
22 would rest today with the exception of some small issue or
23 document that Ms. Menninger put aside. There is no argument
24 about a subpoenaed witness who is nonresponsive. There was no
25 suggestion of a need for a witness to fly in from England. So

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1 I'm learning that today. We've lost the time that we might
2 have had, had it been raised sooner. I'll still accept the
3 application, but do I have a standard practice, which is you
4 have your witnesses or you rest.

5 I have about 40 prior inconsistent statements to rule
6 on. Anything else before we take that up?

7 MS. COMEY: No, your Honor.

8 THE COURT: Anything else to take up before?

9 MS. MENNINGER: I'm trying to get in touch with
10 someone from the office, your Honor.

11 THE COURT: Defense seeks to admit extrinsic evidence
12 of a prior inconsistent statement under 613(b), which requires
13 that, quote, the witness is given an opportunity to explain or
14 deny the statement and an adverse party is given an opportunity
15 to examine the witness about it.

16 My colleague, Judge Kaplan, in the Gulani (ph.) case,
17 hopefully laid out the proper steps of the analysis.

18 First, the Court must determine whether the proffered
19 statement, in fact, is inconsistent with the testimony sought
20 to be impeached. The test is whether there is any variance
21 between the statement and the testimony that has a reasonable
22 bearing on credibility.

23 Actually, I just thought of something, a question,
24 Ms. Menninger. The witness you haven't been in touch with, is
25 that one of the witnesses for whom you sought to testify under

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1 a pseudonym?

2 MS. MENNINGER: No, it was not, your Honor.

3 THE COURT: Okay. Just wanted to ask that.

4 Second, the parties seeking to offer extrinsic
5 evidence of a prior inconsistent statement must have laid a
6 proper foundation for doing so by affording, A, the witness an
7 opportunity to explain or deny the prior inconsistent
8 statement; and B, the opposite party an opportunity to question
9 the witness about it.

10 Third, the extrinsic evidence of the prior
11 inconsistent statement must be competent and otherwise
12 admissible.

13 Fourth, the impeachment by prior inconsistent
14 statement must relate to material rather than a collateral
15 matter.

16 Finally, even if all these requirements have been
17 satisfied, the trial court nevertheless may exclude the
18 extrinsic evidence under Rule 403 on an appropriate finding.
19 That's *United States v. Gulani*, 761 F. Supp. 2d 114. (S.D.N.Y.
20 2011).

21 At issue first is step 2, whether the witness being
22 impeached had an opportunity to explain or deny the statement.
23 Parties have diametrically opposed interpretations of this
24 requirement, but in support of its position that the witness
25 need not be shown the prior statement. The defense has

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1 repeatedly relied on rule 613(a), which uses different language
2 and is about impeachment by prior inconsistent statement on
3 cross examination, not introduction of a prior statement as
4 extrinsic evidence as it seeks to do here.

5 So the opportunity to explain the statement should
6 consist of something more than just the opportunity to admit or
7 deny making the statement. That's right in Miller, 28 Federal
8 Practice and Procedure Evidence, Section 6205, Note 1, Second
9 Edition 2021. Citing a Seventh Circuit case and an Eleventh
10 Circuit case.

11 Now I'm going to quote from Gulani again. A trial
12 court has discretion to require satisfaction of the latter
13 requirement before the extrinsic evidence is offered or
14 alternatively to permit it to be satisfied by recalling the
15 witness after the extrinsic evidence is received.

16 In a case called Surdow, S-u-r-d-o-w, the Second
17 Circuit stated that the district court has broad discretion to
18 exclude extrinsic impeachment evidence that was not revealed
19 while the witness was on the stand or at least before the
20 witness was permitted to leave the court. That's United States
21 v. Surdow, 121 F.Appx. 898 (2d Cir. 2005), collecting
22 authorities.

23 Therefore, the Court will sustain the government's
24 objection as to all proposed prior inconsistent statements to
25 which the witness was not presented with the statement to

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1 explain or deny it.

2 Next at issue is the first step of whether the
3 witness's testimony and the prior statement are inconsistent.
4 I provide the following guidance before we turn to the
5 specifics.

6 First, if the statement was presented to the witness
7 and the witness admitted to making the statement, then
8 extrinsic evidence is inappropriate, and the parties apparently
9 agree on this point in their last two letters as do circuit
10 courts who have decided the issue. That's true for the Fifth
11 Circuit, Sixth Circuit, and Tenth Circuit.

12 Second, the prior inconsistent statement must actually
13 be the witness's statement to show an inconsistency. United
14 States v. Almonte, 956 F.2d 27, (2d Cir. 1992).

15 Where the defense relies on a third party's
16 characterization of the witness's words rather than a verbatim
17 transcript, then the witness must have subscribed to that
18 characterization. On that basis, notes taken in law
19 enforcement interviews will generally not prove an
20 inconsistency for purposes of rule 613(b). See, for example,
21 United States v. Leonardi, 623 F.2d 746, the Gulani case and
22 others.

23 Of course, that infirmity is solved by calling the
24 interviewing officer as a witness or to avoid calling another
25 witness, the government stipulates to the accuracy of the

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1 notes.

2 Third, as I previously explained, testimony that a
3 witness does not recall making a statement may be but is not
4 necessarily a basis for inconsistency.

5 Finally, I'll apply 403, consistent with my prior
6 rulings of prior inconsistent statement has already been read
7 in full into the record. I'll sustain the government's
8 objection to admitting the statement as extrinsic evidence.
9 See, for example, United States v. King, 560 F.2d 122
10 (2d Cir. 1977). Stating where evidence is admissible under
11 613, it could be excluded under 403.

12 With that, we can turn to the list of the prior
13 statements and I'll do my best to apply that guidance I've just
14 given in light of the arguments raised by the parties and my
15 review of the transcript.

16 So beginning with Jane, transcript at 447, I will
17 overrule. Jane denied the statement in the handwritten notes,
18 which is an inconsistency, even if the later 302 corroborates
19 Jane's testimony. I will overrule that government objection.

20 Transcript at 455, I'll sustain the government's
21 objection for two reasons. The full statement was read into
22 the record and Jane responded it was, quote, correct, I guess,
23 admitting the statement.

24 Transcript at 470 to 71, overruled. Here the defense
25 has adequately identified the statement at issue.

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1 Transcript at 471, sustained. As I said at the time,
2 the timeframe of that question was too unclear to create an
3 inconsistency and no statement was presented to Jane to explain
4 or deny it.

5 Transcript at 473 to 74, overruled. That's provided
6 admissible evidence either via stipulation or a witness is used
7 to prove the notes.

8 Transcript at 475, sustained. Jane's prior statement
9 was that she was not sure where the incident happened, so there
10 is no inconsistency. She also answered "I don't recall" to
11 each question, so there is no inconsistency.

12 Transcript 475 to 76, I'll sustain. The defense's
13 questions did not track the 302 report, does not refer to
14 whether the defendant touched Jane or not. The defense
15 referred Jane to the December 2019 interview document, but then
16 asked questions about the February 2020 interview. So there is
17 an inadequate basis for inconsistency.

18 Transcript at 476, lines 2 through 4, sustained.
19 Again, the defense referred Jane to the incorrect interview and
20 for the statement it now seeks to admit in Jane's statement
21 that she doesn't recall, she said she was not sure is not an
22 inconsistency.

23 Transcript at 476, lines 8 through 10, sustained. The
24 question follows the above entry and again fails to properly
25 orient Jane, and Jane said "I don't recall," which is not

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1 inconsistent.

2 Transcript at 476, lines 14 through 16, sustained for
3 the same reasons as the last two.

4 Transcript at 476, line 17 through 19, sustained for
5 the same reasons.

6 Transcript at 477, sustained for the same reasons.

7 Transcript at 478, overruled.

8 Transcript at 479 to 80, overruled.

9 Transcript at 480, sustained. There is no
10 inconsistency, because Jane's answer that she doesn't remember
11 and her prior statement that she did not know whether
12 Ms. Maxwell was present, there is no inconsistency.

13 Transcript at 499, 507 to 508, I will overrule.

14 Transcript at 506 to 7, sustained. Jane admitted to
15 making the prior statement.

16 Transcript at 512 to 13, sustained. Jane's prior
17 statement that they hiked is not inconsistent with her
18 testimony. Also not material.

19 Transcript at 513, overruled.

20 Transcript at 514, overruled.

21 Transcript at 514 to 15, sustained. Jane's prior
22 statement about abuse in New York not being, quote, a group
23 thing, is not inconsistent with her testimony.

24 Transcript at 521 to 22, sustained. Jane agreed with
25 virtually all of the details of this event, except for the

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1 timeline, which she said she does not remember and is not a
2 basis for inconsistency and it goes to a collateral matter.

3 532, sustained. Statement was read aloud.

4 596, sustained, the statement was read aloud.

5 That's, I believe, all of the Jane statements; is that
6 correct?

7 MS. COMEY: Yes, your Honor.

8 MS. MENNINGER: Yes, your Honor. The parties had
9 agreed to a few either being in or out before we submitted
10 this, so those are part of the record your Honor just gave, but
11 the parties know what they are.

12 MS. COMEY: Yes, your Honor.

13 THE COURT: Thank you, Ms. Menninger, for that
14 clarification.

15 Next, Annie.

16 Transcript at 2151, sustained. She acknowledged the
17 statement but said she didn't recall making it. So there is no
18 inference of inconsistency.

19 Transcript at 2160 to 61, sustained. Annie said --
20 there is not an inconsistency. Annie said she didn't recall a
21 chef, but, quote, that makes sense to me that there was a chef
22 there, quote. It also goes only to a collateral issue.

23 Transcript at 2165 to 66, sustained. Statement was
24 already read out loud, testimony is not inconsistent, and the
25 amount of horseback riding is collateral.

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1 Transcript at 2174 to 76 and 2194 to 95, I'll sustain.
2 I sustained two objections to continuing question on this
3 issue. Statement was read aloud and the defense made and can
4 make its impeachment argument.

5 2182 to 83, sustained. The statement was read aloud.

6 2185 to 86, sustained. The statement was read aloud
7 and there is no inconsistency as I previously ruled at 2186.

8 2195, sustained for the same reasons I just indicated.

9 2197 and 98, sustained. Annie did not earlier
10 characterize Ms. Maxwell as, quote, disinterested, but that's
11 not an inconsistency. Further, Annie had no opportunity to
12 explain or deny the statement or lack thereof.

13 2209 to 13, sustained. There isn't an inconsistency
14 and Annie answered, "I don't recall."

15 2224, sustained.

16 I think that's it. And just on that last one, it was
17 read aloud and I don't see an inference of inconsistency.

18 Anything else on that?

19 MS. COMEY: No, your Honor.

20 THE COURT: Ms. Menninger?

21 MS. MENNINGER: No, your Honor.

22 THE COURT: Again, recognizing that the parties had
23 agreed on others.

24 MS. MENNINGER: Yes, your Honor. Just with respect to
25 one thing your Honor just said, because the statement was read

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1 aloud, I believe the phrase you just used was the defense can
2 make the impeachment argument. Because the quote was read
3 aloud, even if the witness doesn't recall making the statement
4 does not prohibit us from making an argument to the jury that
5 the statement was, in fact, made to law enforcement and
6 impeaches the witness's testimony; correct?

7 THE COURT: If it's in the record, that inference is
8 available to argue. Any disagreement?

9 MS. COMEY: No objection, your Honor.

10 MS. MENNINGER: I just want to make sure in closing
11 arguments --

12 THE COURT: I totally appreciate that. And anything
13 to avoid objections during closing argument.

14 MS. COMEY: Obviously it's not for the truth, it's for
15 impeachment, but no objection to that argument.

16 MS. MENNINGER: I think impeachment is for the truth,
17 your Honor.

18 THE COURT: That is way more metaphysical than I can
19 handle at this moment.

20 MS. MENNINGER: Thank you.

21 THE COURT: Thank you.

22 MS. COMEY: Your Honor, I would note that in light of
23 the rulings on the Annie Farmer statements, it appears that
24 there is no longer any relevance for calling AUSA Rossmiller as
25 a witness, and I just want to confirm that he is released from

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1 potentially having to testify.

2 THE COURT: I think that's a conferral question. I
3 don't have a basis to know.

4 MS. COMEY: Yes, your Honor. I'm asking so that there
5 is a clear record.

6 THE COURT: Okay. Ms. Menninger, you can think about
7 it.

8 MS. MENNINGER: I'm not sure what the status is of
9 this email with Mr. Glassman about The Lion King, if that was a
10 stipulation --

11 MS. COMEY: Your Honor, I believe that was precluded.
12 Your Honor's ruling about testimony from attorneys was that the
13 only permissible testimony would have been the email from --
14 the statement by Mr. Glassman about whether testifying would
15 help her case and that all other testimony about attorneys
16 would be precluded.

17 THE COURT: If this is implicated in the motion
18 related to calling the three attorneys, then that was my ruling
19 with respect to that.

20 MS. MENNINGER: I'll have to look back at that, your
21 Honor. That's the only other thing that's coming to mind with
22 respect to Mr. Rossmiller's potential --

23 THE COURT: That series was questioned during the
24 testimony, which may have been my basis.

25 MS. MENNINGER: It may be, your Honor. I just don't

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1 remember if the witness --

2 THE COURT: It's fine.

3 MS. MENNINGER: Said she didn't know about it because
4 it was her lawyer who had had the communication.

5 MS. COMEY: My recollection, your Honor, is that we
6 had this discussion on the record and that Jane testified that
7 she was told at some point about The Lion King coming out in
8 1997, and I think defense counsel elicited from her that that
9 was -- that it was after that, that she had a different memory
10 about her travel to New York. So I think the record is
11 available for defense to make the argument it wants to make.

12 MS. MENNINGER: I think, as your Honor heard from
13 Dr. Loftus yesterday, the fact that someone suggests an answer
14 and that may be the part that wasn't clear from Jane's
15 testimony, because it came through her attorney,
16 Mr. Rossmiller, but I'll go back and take a look at your
17 Honor's ruling and raise any issues with the government in
18 conferral.

19 THE COURT: Okay. I will cross whatever bridge you
20 put in front of me. I'm looking at my ruling on the three
21 attorneys, which kept out that testimony.

22 What else? We do have all our jurors.

23 MR. EVERDELL: Your Honor, I anticipate that one of
24 the witnesses this morning, the defense will call Special Agent
25 Amanda Young, who is one of the case agents on the

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1 investigation. I just want to make clear that she be called as
2 a witness who's associated with an adverse party. So I intend
3 to use leading questions under rule 611(c).

4 THE COURT: I always encourage you to try -- you begin
5 with direct and if she becomes adversarial, truth comes out in
6 direct questions, but if you're not getting response to the
7 answers or you're getting somewhat responsive answers but it's
8 delaying, I'll take the application.

9 Ms. Comey, did you have something?

10 MS. COMEY: I just wanted to note, your Honor, that my
11 understanding of Agent Young's testimony is that it's going to
12 be about the prior inconsistent statements of Jane that your
13 Honor has ruled are admissible. I don't imagine that much
14 leading will be necessary for that.

15 MR. EVERDELL: Your Honor, I intend to go into other
16 aspects with Special Agent Young.

17 THE COURT: Like what?

18 MR. EVERDELL: Well, I believe, under your Honor's
19 ruling, I'm allowed to inquire about the absence of evidence,
20 and there is an absence of evidence in this case.

21 THE COURT: Give me an example question.

22 MR. EVERDELL: Well, there is no emails from the
23 1990s, there is no geo location. I want to make that clear for
24 the jury, these are all things that I think jurors in the
25 modern era would expect, and there is none here, given the age

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1 of the case. There is no phone records. There is no -- there
2 is lots of things that you might expect to be part of the case
3 that are not here. The main reason for that is that the age of
4 the case, especially the allegations in the 1990s are quite old
5 and these records don't exist anymore. So I think it's fair to
6 raise to the agent the absence of evidence, that evidence
7 through the agent. That's one topic.

8 THE COURT: So, for example, give me your example
9 question on emails.

10 MR. EVERDELL: It's in here somewhere, your Honor. As
11 part of your investigating the case, you tried to gather as
12 much documentary evidence as you can to corroborate what the
13 witnesses are telling you, isn't that right. I imagine the
14 answer is going to be yes to that. And given the age of the
15 case, there were no emails from the 1990s, there are
16 allegations in this case from the 1990s, correct, yeah. There
17 are no emails that you have for any of the accusing witnesses
18 who testified against Ms. Maxwell from the 1990s, is that
19 right, yes. Because, in fact, in the 1990s, nobody used email,
20 it wasn't very popular, it was just starting, yes. So because
21 the allegations are over 25 years old, there are no emails in
22 this case from that period, isn't that right, yes, there is no
23 emails. Same thing about phone --

24 THE COURT: I'm sorry. I cut you off, Mr. Everdell.
25 Same thing about phone records?

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1 MR. EVERDELL: Phone records, geo location
2 information, things like that.

3 MR. ROHRBACH: This implicates at least two of the
4 Court's rulings on the subject. One is that the defense can't
5 elicit direct testimony about investigative steps that the
6 government did or did not take. And the other is defense can't
7 elicit direct testimony about the thoroughness of the
8 government's investigation. As your Honor ruled, they can say
9 in their closing there is no email evidence before you that
10 goes to defendant's guilt or innocence, but they can't elicit
11 testimony from the special agent, the government's case agent
12 about the steps the government did or did not take or why the
13 government did or did not take them and what that says about
14 the thoroughness of the government's investigation.

15 MR. EVERDELL: Your Honor, I believe I am allowed to
16 comment on the absence of evidence. I'm allowed to put that in
17 through a witness if I choose and this is the witness to do it.

18 THE COURT: Not inconsistent with my ruling.

19 MR. EVERDELL: I understand that, your Honor.

20 THE COURT: I'll pull it up and look again, but with
21 respect to the ability to cross examine witnesses put on to
22 show the thoroughness of the investigation, you can cross on
23 the failure to do that. The absence of evidence is arguments
24 that you can make comments on, of course, and seek the jury to
25 conclude from it what it likes in the course of its

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1 investigation, but I specifically precluded direct evidence of
2 failure of investigative techniques.

3 MR. EVERDELL: I'm not saying an investigative
4 technique per se, your Honor. I'm simply pointing out that
5 evidence that a jury might expect to see, given we are in the
6 modern era, is not present in front of them because of the age
7 of the allegations. So I think this point through the agent
8 clarifies the fact that these records don't exist anymore, they
9 tried to get them, I think, and they didn't exist. It's not a
10 particular technique, it's just highlighting the fact that, in
11 a case of this age, there are records that have disappeared,
12 phone records get deleted after a while, there is no such thing
13 as geo location information, there weren't cellphones that had
14 these things.

15 So pointing it out to the agent is simply pointing out
16 the absence of evidence because there wouldn't be anything in
17 the record to argue that to the jury if I'm not allowed to put
18 that in front of -- through this agent. I mean, there needs to
19 be some explanation of the fact that I think this agent could
20 provide that these people didn't have cellphones to their
21 knowledge, so they wouldn't have had geo location information
22 and that's why we don't have it in this case.

23 MR. ROHRBACH: I'm a little confused why the defense
24 wants to put this in, your Honor. We've had testimony in this
25 case from a custodian and others about what recordkeeping

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1 practices are like. It's not clear to me that Special Agent
2 Young will have knowledge about the use of cellphones and
3 availability of geo location data, personal knowledge from that
4 era, unless the question is, did you take an investigative step
5 to hire that data and did it exist or not exist, and that is
6 precisely the kind of question that is improper.

7 Your Honor, the government did not open this door on
8 its direct case, so there is no room for the defense to start
9 eliciting direct testimony on this point. The absence of geo
10 location information is clear in the record from the absence of
11 geo location information in the record.

12 THE COURT: That's right. It sounds like what you're
13 trying to do is have the inference of steps not taken in order
14 to emphasize, argumentatively, the absence of evidence, which
15 you can make those arguments in summation.

16 MR. EVERDELL: I'll be honest with the Court, I truly
17 don't understand the distinction between investigative steps
18 versus absence of evidence, because they are inextricably
19 linked in my mind. I'm trying to walk the line because I do
20 understand the Court's ruling, but if I'm allowed to get into
21 absence of evidence and argue that to the jury, I have to be
22 able to point out in the direct case what they're not seeing,
23 what absence of evidence there is.

24 THE COURT: Why can't you do that?

25 MR. EVERDELL: What I'm trying to do is do it through

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1 the agent and just elicit from the agent that there were no
2 phone records because phone records get deleted after a certain
3 amount of time, but I believe they tried to get phone records,
4 but none existed because of the age of the allegations. I
5 mean, geo location, I think anybody who could testify to the
6 fact that there aren't geo location -- the information,
7 especially an FBI agent because cellphones didn't exist back
8 then, there weren't records available back then. And emails,
9 too, that there were no emails to get because of the age of the
10 case. That's all I'm trying to do with that point, your Honor,
11 is elicit the absence of evidence so that we can then argue it
12 in front of the jury.

13 MR. ROHRBACH: Your Honor, they don't have to elicit
14 the absence of evidence in order to argue to the jury that the
15 evidence is absent. So to the extent they are trying to elicit
16 the absence of evidence through Special Agent Young is just the
17 argument they want to make in closing made through leading
18 questions on direct examination of a federal law enforcement
19 agent.

20 THE COURT: I'm just going to reread the relevant
21 portion of the transcript. I will take them as they come, but
22 my instinct is the government is correct, you're either
23 violating my rule or you're being argumentative in a way that
24 you can argue from an absence in closing.

25 MR. EVERDELL: Your Honor --

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1 THE COURT: Or there would be foundation issues,
2 which, if probed into, essentially would be violative of my
3 order to the extent that you're making arguments -- to the
4 extent that foundational inferences are essentially asking the
5 agent what she did or didn't do, which is precisely a violation
6 of my order.

7 And the whole point of the -- I mean, the whole point
8 of not allowing the defense to put on a case about what the
9 government did or didn't do and the motivations and the like is
10 because that's the question for the jury. The question for the
11 jury is, does the evidence that the government put on, that
12 they deemed credible, prove beyond a reasonable doubt or not
13 the charges. That is the core basis of my in limine holding.

14 MR. EVERDELL: I'm not trying to violate this, which
15 is why we're discussing this, your Honor. I just thought there
16 was some room to be able to elicit evidence about the absence
17 of evidence rather than just argument to the jury, and that's
18 what I was intending to do with this witness. If the Court
19 thinks what I've just proposed, that's generally the tenor of
20 the questions on that point are, violative of the order, I
21 might have to think it out and not be able to go into it
22 because of what you're saying, but I hear what you're saying.

23 THE COURT: Yeah, I mean, take it -- imagine it's a
24 modern case, right, and you ask why didn't you get geo location
25 evidence, it's asking what the government did or didn't do.

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1 You essentially want the -- I'm a little with Mr. Rohrbach.
2 I'm not sure why you want the government or if this is a spin
3 to make -- to try to hide what the question is doing, but you
4 want the government to testify, well, we didn't get geo
5 location information because it didn't exist.

6 MR. EVERDELL: Your Honor, I'll be very transparent.
7 I think the point is highlighting the age of the allegations,
8 which I think is a fair point to make to the jury. These are
9 allegations that are 25 years old, and when you make a case on
10 allegations that are more than 25 years old, you're not going
11 to have the same type of corroboration available to you because
12 records get destroyed in that amount of time. The records
13 aren't available that long ago that are available today that
14 you might otherwise expect to see in a case like this.

15 But the bigger point is just the age of the
16 allegations. So the absence of evidence goes to the fact that
17 these are 25-year-old allegations.

18 (Continued on next page)

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1 THE COURT: How about this: I'll let you ask the
2 agent -- I suppose I'll hear from the government.

3 What is the time period of the allegations that she
4 investigated?

5 MS. COMEY: Your Honor, I think that the investigation
6 that this agent was the case agent for was much broader than
7 the charges here. And so it could lead to avenues that are not
8 appropriate for this trial and that are irrelevant to this
9 trial. And I think that your Honor's pretrial ruling was
10 crystal clear here that this is not appropriate direct
11 testimony by the defense.

12 Defense counsel, in almost every trial, stands up in
13 front of a jury and says, You didn't see this kind of evidence,
14 you didn't see DNA, you didn't see phone records. And they
15 don't need to put an agent on the stand to prove that negative.
16 They are able to make that argument without having to put on
17 that case through affirmative agent testimony, and the same is
18 true here.

19 THE COURT: You can certainly argue to the jury from
20 the indictment and what they are being instructed to determine
21 what the age of the allegations are.

22 MR. EVERDELL: Okay. I understand, your Honor.

23 As we're doing this, I think maybe we should raise a
24 few other points, since I don't want to violate the judge's
25 ruling.

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1 I do intend to go through with this witness whether
2 they followed up on certain things that they heard in the
3 interviews, like, for example -- I'll give an example.

4 We heard from Jane testimony -- she confirmed on the
5 stand that she told the government that she was involved in
6 sexualized massages with multiple people, and she named the
7 first names of several of those people. I believe we know from
8 what she was saying to the government who those people are,
9 it's the subject of some of these submissions we made to the
10 Court about other witnesses that we want to call.

11 My understanding is from looking at the records that
12 were provided to us, they didn't follow up and talk to some of
13 these witnesses, right. So, for example, one of the names
14 mentioned was Michelle. We think we know who that Michelle is.
15 That Michelle was evident to the government because there was a
16 Michelle -- at least one Michelle. One Michelle was
17 communicated to the government by another witness that worked
18 in the office. They never spoke to that Michelle. Same thing
19 with some of the other people that were mentioned; never spoke
20 to them.

21 And I think that under your Honor's ruling, even
22 though that, I guess, is an investigative step, and I'm looking
23 at your Honor's ruling now, you were talking about the *Watson*
24 case, and you said that some arguments about the thoroughness
25 of the investigation are probative of guilt in some

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1 circumstances.

2 In that case, law enforcement had received a tip that
3 the defendant was innocent because another individual shot the
4 victim. The Second Circuit stated that cross-examination of
5 the lead investigating officer on that tip was probative
6 because the jury could conclude that law enforcement had
7 prematurely concluded the defendant was the shooter and it
8 failed to investigate diligently the possibility that it was
9 the other individual. That was the *Watson* case.

10 I think we want to make these points, your Honor,
11 because I think the point to the jury is the government
12 credited the witnesses, the accusers in this case, without
13 following up on the information that they provided to see if it
14 was wrong. Not following up on that information is probative
15 of the defendant's guilt or innocence in this case; because had
16 they followed up, we believe they would have heard that that
17 was not true from these witnesses. And so that goes to the
18 guilt or innocence of this defendant.

19 I do intend to get into that on the stand and talk to
20 them about, You spoke to Jane on X date. And on that date she
21 told you about group sexualized massages involving this person
22 and that person; isn't that right? Yes. Spoke to her on
23 another date; she mentioned a few other names. Spoke to her on
24 a third date; she mentioned names again, and she gave physical
25 descriptions of these people. She said certain details about

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1 these people which I will elicit.

2 You were aware of someone named Michelle in this case.
3 You were aware, for example, of this Michelle -- and I'm going
4 to have to use her full name, because we lost the anonymity
5 issue, but you're aware that there was a Michelle Healy who
6 worked in the office. You never spoke to Michelle Healy, did
7 you? So I would like to be able to do that. Under your
8 Honor's ruling, I believe, that's appropriate under the *Watson*
9 case.

10 THE COURT: Mr. Rohrbach.

11 MR. ROHRBACH: Your Honor, I disagree with almost
12 every premise of what Mr. Everdell just said. But the core
13 legal issue is one the Court has already analyzed which is the
14 *Watson* case is a *Brady* case. It doesn't stand for anything, as
15 the Second Circuit has held, about exactly what sorts of
16 evidence can and can't come in. The Court has explained that
17 the challenges of the thoroughness of the investigation can
18 come in in lots of ways, including cross-examination. The
19 defense counsel could and did ask Jane when she testified who
20 was in the room during the massages. They can put on evidence
21 of witnesses who they believe are the other people in the room.
22 But what they can't do is in their direct case, call a case
23 agent and say, You didn't take this investigative step; you
24 didn't take that investigative step. That is precisely the
25 challenge to the thoroughness of the investigation that's

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1 precluded.

2 THE COURT: I've relitigated so many issues in this
3 case, so I suppose this is just going out with the same
4 pattern. But I said in my ruling, in its brief, the defense
5 seeks to affirmatively -- and I'll quote from the brief --
6 "call FBI case agents as witnesses" to ask who they talked to,
7 what documents they subpoenaed, and when.

8 But as the Second Circuit explained in *Saldarriaga*,
9 the government's use or nonuse of certain investigative
10 techniques does not tend to show the defendant's innocence of
11 the charges. That's transcript at page 20. And I also said I
12 would permit the defense to cross-examine law enforcement
13 officers about the investigative steps that were taken if the
14 government puts the thoroughness of the investigation into
15 issue, as this too would be permissible impeachment on cross,
16 and they did not.

17 I suppose words have meaning in the eyes of the
18 beholder, but what you're suggesting is directly contrary to my
19 ruling.

20 MR. EVERDELL: Your Honor, I did see that. I'm not
21 trying to be contrary. I just went back to the premise of your
22 ruling when I was looking at the transcript cites and the cases
23 that you cited as premise for your ruling. And because this
24 issue became a live issue when we had Jane's testimony, I
25 thought it appropriate to see if we could revisit this to see

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1 if this was now appropriate line of cross.

2 THE COURT: No.

3 MR. EVERDELL: Understood, your Honor. Okay.

4 Then there are two other issues then. I did want to
5 get into this with this witness, that the investigation of the
6 allegations against Ms. Maxwell started with the first three of
7 the accusers, and that time period was focused, so that's Jane,
8 Annie Farmer, and Kate. And that time period was focused on
9 '94 to '97. And then they got an indictment based on those
10 charges. And then later, they talked to Carolyn and they
11 amended the indictment, and those allegations relate to a later
12 time period, 2001 to 2004, and that those are the subject of
13 the last two counts in the indictment, Counts Five and Six.

14 The purpose of this, your Honor, is just to be able to
15 show the jury that there are -- there's a difference between
16 those counts and who the witnesses are, information whose
17 evidence is related to those counts. And I think that's
18 relevant to be able to explain that to the jury without
19 getting -- it doesn't really talk about investigative steps;
20 it's just simply saying, You talked to Carolyn after you spoke
21 to these three first. These are the three who you originally
22 had evidence from against Ms. Maxwell. Carolyn came to you
23 later. You spoke to her first in 2019; she wanted to talk to
24 you with a lawyer. You didn't speak to her again until a year
25 later. At that point you did meet with her. You took her

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1 information, you got her account, and then you amended the
2 indictment and added her allegations at that point. And those
3 refer to the last two counts in the indictment.

4 MR. ROHRBACH: Your Honor, this is another issue the
5 Court has already ruled on. This is evidence and testimony
6 about the path of the investigation, the government's charging
7 decisions along the way.

8 THE COURT: Could you pull up the mic.

9 MR. ROHRBACH: This is proposed testimony about the
10 government's charging decisions and the path of the
11 investigation along the way, including when the defendant was a
12 target for certain pieces of the investigation and certain
13 counts of the indictment.

14 I think the Court relied on *Saldarriaga* again and the
15 *Duncan* opinion when it, in its pretrial rulings, excluded these
16 lines of testimony. And in any event, I understand that
17 Mr. Everdell wants to make this argument to the jury. This is
18 an argument they can make in closing to the jury; but it's not
19 something that they can elicit as evidence from the
20 government's case agent.

21 MR. EVERDELL: Your Honor, I don't know how I can make
22 that argument to the jury when there are no facts about when
23 they spoke to these witnesses.

24 THE COURT: To what investigative steps they took.

25 MR. EVERDELL: When they spoke to the witnesses, if

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1 you're going to call that, broadly speaking, an investigative
2 step --

3 THE COURT: Again, just reading from my ruling, it was
4 pretrial. So, as I said, if you think things changed on the
5 ground, you can reargue. I'm not aware of anything changing on
6 the ground here. But I said specifically, Call FBI agents as
7 witnesses to ask who they talked to, what documents they
8 subpoenaed, and when.

9 But as the Second Circuit explained in *Saldarriaga*,
10 the government's use or nonuse of certain investigative
11 techniques does not tend to show defendant's innocence of the
12 charges.

13 What I hear you asking now, again, is either precluded
14 by that ruling or to the extent it's slightly different, it's
15 unclear to me what the relevance is and would likely bleed over
16 into what I've prohibited.

17 MR. EVERDELL: All right, your Honor.

18 Well, I think my cross just got a lot shorter.

19 THE COURT: Maybe now you can stipulate to this
20 agent's testimony, since this was why you wouldn't.

21 MS. COMEY: Your Honor, I will reiterate our
22 willingness to stipulate to this agent's testimony on prior
23 inconsistent statements.

24 MR. EVERDELL: The one other point --

25 THE COURT: Mr. Pagliuca told me yesterday the reason

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1 to do it with the agent was efficiency, which I would say he
2 said it with a straight face, but I can't tell with the mask
3 on.

4 MR. EVERDELL: Your Honor, I would just raise one last
5 point, since we're going through all this. I also would like
6 to go through with Agent Young the fact of the search that
7 occurred in Mr. Epstein's residence in 2019. The number of
8 devices that were taken, the fact that she, I believe, reviewed
9 virtually everything that was on those devices personally --
10 maybe not all of it, but the vast majority of it. There were
11 millions of pages, millions of files in those documents. And
12 we have only -- the government has only presented a certain
13 number of those for the jury. But I think I need to be able to
14 get out the fact that there were millions and millions of
15 pages --

16 THE COURT: That's in evidence, is it not?

17 MR. EVERDELL: I don't know the number of files that
18 were extracted from the devices is in evidence. I believe she
19 would know at least anecdotally, because I think she reviewed
20 all of this.

21 THE COURT: Do you have the witness who extracted?
22 Didn't we have the person?

23 MR. EVERDELL: We had Mr. Flatley.

24 MS. COMEY: That was Kimberly Meder, your Honor. And
25 Ms. Menninger on cross-examination of Ms. Meder did elicit that

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1 there were thousands of photographs seized, and that there was
2 only obviously a subset that was presented to the jury.

3 MS. MENNINGER: Right. Ms. Meder only was speaking to
4 photographs, your Honor, not to the number of devices.

5 MS. COMEY: Your Honor, I would note that that was a
6 situation where we called a witness affirmatively in our case
7 to talk about photographic evidence that was seized; and then
8 the defense properly cross-examined that witness about that
9 evidence.

10 What the defense is now suggesting they should be able
11 to do is bring in a whole host of other investigative steps.
12 There was Mr. Flatley, who testified about extraction from a
13 single hard drive. I believe what Mr. Everdell is talking
14 about is all of the other devices that were seized throughout
15 the course of this investigation. And I think that that would
16 be in violation of the Court's order. It would also be
17 extremely confusing, because when we're talking about this
18 investigation, it's a little ambiguous what we're talking
19 about, as we alluded to earlier. This investigation was
20 broader than just what resulted in these charges.

21 MS. MENNINGER: Well, your Honor, there was a search
22 that the government elicited information about that occurred in
23 2019 of our alleged co-conspirator's home. The question can be
24 phrased because they --

25 THE COURT: Which witness was that?

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1 MS. MENNINGER: Ms. -- which witness what?

2 THE COURT: I thought you just said the government put
3 on evidence of the search.

4 MS. MENNINGER: I think it was not Ms. Meder --
5 Maguire, Kelly Maguire.

6 MR. EVERDELL: She was the agent who did the search.

7 THE COURT: Did you cross on devices found?

8 MR. EVERDELL: I don't believe I did, your Honor.

9 THE COURT: Why not? I mean, I'm not trying to probe
10 strategy but, like, isn't that precisely --

11 MS. MENNINGER: I think Maguire only did certain parts
12 of the search, in the same way that the Palm Beach -- there
13 were only agents that did certain parts of the search. Agent
14 Young was in charge of the search more broadly.

15 MS. COMEY: Your Honor, that's not accurate.

16 Special Agent Maguire testified that she was the
17 search team leader who oversaw the entire search of that New
18 York residence. And this was absolutely an avenue of cross
19 that defense could have taken. We may have objected, depending
20 on how it was phrased, but we put on the search team leader
21 from that search.

22 MR. EVERDELL: But, your Honor, I don't think Agent
23 Maguire extracted the files from the devices.

24 THE COURT: Did Agent Young extract the files from the
25 devices?

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1 MR. EVERDELL: She didn't. But she reviewed, I
2 believe, every file that was extracted from the devices; so she
3 knows generally how many there were and what types there were.

4 MS. COMEY: Your Honor, we put on the witness who
5 extracted all of the files from all of these devices. That's
6 Stephen Flatley. He was on the stand. And we put on a witness
7 who reviewed all the photographs. That was Kimberly Meder.
8 She was on the stand.

9 What the defense wants to do now is impeach the
10 investigation, that is what this is about.

11 THE COURT: Okay.

12 You had the opportunity to ask witnesses put on by the
13 government. Consistent with my ruling, to the extent they put
14 the thoroughness of the investigation -- I wouldn't say it was
15 thoroughness, but they put the relevant agent who you could
16 have crossed on this on the stand. And maybe there would have
17 been an objection, to the extent you were calling into question
18 the thoroughness of the investigation without it being raised.
19 I might not have permitted it there, but I certainly won't
20 permit it further removed as direct evidence of the
21 thoroughness of the government's investigation and
22 investigative steps, which is precluded by my November 1st
23 ruling.

24 MR. EVERDELL: Understood, your Honor.

25 THE COURT: Thank you.

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1 MS. COMEY: So then to be clear, your Honor, is it the
2 case that Agent Young is only being called for prior
3 inconsistent statements?

4 MR. EVERDELL: Maybe we need to confer a little bit
5 before this.

6 THE COURT: Okay. Who's the first witness?

7 MR. PAGLIUCA: Jason Richards, your Honor, Special
8 Agent Richards, which is a short witness.

9 MS. COMEY: That's another witness we offered to
10 stipulate to, your Honor. Prior inconsistent statements, I
11 think there are two that he's going to be called to testify --

12 THE COURT: That he's just doing those, Mr. Pagliuca,
13 or anything else?

14 MR. PAGLIUCA: Excuse me, your Honor?

15 THE COURT: I'm sorry.

16 Is he just doing those two --

17 MR. PAGLIUCA: Yes, that's it.

18 THE COURT: Okay. And then who's after that?

19 MR. EVERDELL: Well, it would have been Young, Agent
20 Young.

21 THE COURT: Okay.

22 MR. EVERDELL: And then it's -- we have Eva Dubin.

23 THE COURT: Okay.

24 Why don't we do Richards and then Dubin, and see if
25 you can stipulate on Young. Does that make sense?

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1 MR. PAGLIUCA: I don't believe Ms. Dubin is here yet,
2 your Honor. I had her scheduled for 11 o'clock this morning --

3 THE COURT: Okay.

4 MR. PAGLIUCA: -- in anticipation of some other
5 testimony. I can reach out to her lawyer and see if she can be
6 here earlier.

7 MS. COMEY: Your Honor, if the defense doesn't have a
8 witness and would like to put on Agent Young, we can go ahead
9 and put on Agent Young. Again, we offered to stipulate.

10 THE COURT: Well, here we are.

11 We don't have another witness at the moment?

12 MR. EVERDELL: We have -- one moment, your Honor.

13 (Counsel conferred)

14 MS. MENNINGER: We haven't spoken to the people out in
15 the hall who have the witnesses. So if we can have a minute to
16 figure this out.

17 THE COURT: Okay. Why don't I give you a couple
18 minutes. We'll let the jury know we'll start in about 15
19 minutes, so they know we haven't forgotten about them. See
20 what you want to do, and then we'll come back and get started
21 where we can.

22 Do I have a filing yet, Ms. Menninger?

23 MS. MENNINGER: No, your Honor. I wasn't able to
24 reach people in Colorado. They weren't at the office yet.

25 THE COURT: I'm sorry?

LCHVMAX2

1 MS. MENNINGER: They were not at the office yet in
2 Colorado when I reached out to the office.

3 THE COURT: Okay. I'll step down.

4 (Recess)

5 THE COURT: Where are we?

6 MS. COMEY: Your Honor, I believe the defense is not
7 going to stipulate, but I'll let them speak for themselves.

8 MS. MENNINGER: That's right.

9 THE COURT: Okay. Then we should definitely get
10 going.

11 MR. PAGLIUCA: I'll get the next witness, if that's
12 all right.

13 THE COURT: We'll bring in the jury and then get the
14 witness ready to come in.

15 Ms. Menninger, the Rule 17 subpoena return date when
16 for the witness who isn't here?

17 MS. MENNINGER: The subpoena return date was for the
18 first day of trial. And for each one of them we communicated
19 to place them on call because we didn't know when we would need
20 them, and we didn't want them to have to wait here, so --

21 THE COURT: Okay. First day of trial.

22 MS. MENNINGER: Yes, your Honor.

23 THE COURT: Okay.

24 So the witness should just wait to be called.

25 MS. MENNINGER: Your Honor, if I may complete that

LCHVMAX2

Richards - direct

1 record. She was served on December 1st. So she was served
2 after the start of the trial.

3 THE COURT: Do I have an application yet,
4 Ms. Menninger?

5 MS. MENNINGER: No, your Honor.

6 THE COURT: Okay. Bring in the jury.

7 (Jury present)

8 THE COURT: Good morning, members of the jury. I
9 apologize for the delay. We were working through issues that I
10 think will make fewer sidebars, so thank you for your patience.

11 Mr. Pagliuca, you may call your next witness.

12 MR. PAGLIUCA: Thank you, your Honor.

13 Our next witness is Special Agent Jason Richards.

14 THE COURT: Okay. Jason Richards may come forward.

15 JASON RICHARDS

16 called as a witness by the Defendant,
17 having been duly sworn, testified as follows:

18 THE COURT: You may inquire, Mr. Pagliuca.

19 MR. PAGLIUCA: Thank you, your Honor.

20 DIRECT EXAMINATION

21 BY MR. PAGLIUCA:

22 Q. Special Agent Richards, what do you do?

23 A. I'm an FBI agent. I investigate violations of laws of the
24 United States.

25 Q. And how long have you been an agent with the FBI?

LCHVMAX2

Richards - direct

1 A. Eighteen years.

2 Q. So that would take us back to 2003, is that correct, when
3 you started?

4 A. Yes.

5 Q. Can you tell us a little bit about your training to become
6 an FBI agent.

7 A. Attended the FBI academy for basic new agents training.
8 And then there's obviously ongoing training as your career
9 develops.

10 Q. And would that be in 2003 that you went -- is that in
11 Quantico, Virginia?

12 A. Yes.

13 THE COURT: Could you pull the mic up a little bit?

14 Perfect. Thank you.

15 THE WITNESS: You're welcome.

16 Q. As part of your basic training, do you learn how to do
17 investigations in terms of talking to witnesses and recording
18 information from those witnesses?

19 A. Yes.

20 Q. Were you first -- well, where are you stationed currently
21 with the FBI?

22 A. I'm currently with the Miami division at the Fort Pierce
23 resident agency.

24 Q. And how long have you been there?

25 A. Since 2014.

LCHVMAX2

Richards - direct

1 Q. And where were you before 2014?

2 A. Prior to that I was at the Miami division's Palm Beach
3 resident agency. I was there in 2006 to 2014.

4 Q. Okay. And prior to 2006, where were you stationed?

5 A. I was stationed at the Covington resident agency at the
6 Louisville division in Kentucky.

7 Q. I want to direct your attention to 2006, when you were in
8 the Palm Beach area. Okay?

9 A. Okay.

10 Q. Were you assigned to a particular unit in 2006?

11 A. Yes. At that time I was assigned to squad PB2.

12 Q. And what is squad PV2?

13 A. It's PB2.

14 Q. PB2.

15 A. Yes. It's the violent crimes squad and safe streets task
16 force.

17 Q. And were you involved at that point in an investigation
18 regarding Jeffrey Epstein?

19 A. Yes.

20 Q. And did part of your job during that investigation involve
21 talking to witnesses in that case?

22 A. Yes.

23 Q. You indicated that as part of your training as an FBI
24 agent, you are trained to do interview techniques with
25 witnesses, right?

LCHVMAX2

Richards - direct

1 A. Yes.

2 Q. Does that training and experience involve how to listen to
3 people talk?

4 A. What we try to do is listen to get the details as accurate
5 as possible.

6 Q. Okay. And when you're listening and trying to get the
7 details as accurate as possible, are you trying to gather
8 information via open-ended questions to elicit responses from
9 witnesses?

10 A. Yes.

11 Q. As part of your training and experience, do you try to
12 limit anybody from telling you anything?

13 A. No.

14 Q. And as part of your investigation and training, are you
15 looking to get as much relevant information as possible from
16 anyone you're interviewing about a particular topic or subject?

17 A. Yes.

18 Q. Now, I want to direct your attention to 2007, which would
19 be about a year after you began working in Palm Beach; correct?

20 A. Correct.

21 Q. You were working with an agent Nesbitt Kuyrkendall. Do you
22 recall Agent Kuyrkendall?

23 A. Yes.

24 Q. And you and Agent Nesbitt Kuyrkendall were interviewing
25 witnesses together in tandem; is that right?

LCHVMAX2

Richards - direct

1 A. Yes.

2 Q. And is that part of standard practice for the FBI in
3 interviewing witnesses?

4 A. Yes.

5 Q. And is that so you have a witness to the witness interview?

6 A. Yes.

7 Q. Was part of your practice and procedure in interviewing
8 witnesses in 2007 based on your training with the FBI to take
9 notes during witness interviews?

10 A. Yes.

11 Q. And then would you and Special Agent Kuyrkendall review
12 those notes and turn them into what's referred to often as a
13 302?

14 A. Yes.

15 Q. And explain to the jury what a 302 is.

16 A. 302, that's FD-302. That's the standard FBI investigative
17 report form.

18 Q. And is part of the training and practice of the FBI to
19 review the 302 for accuracy prior to it being finalized?

20 A. Yes.

21 Q. And do you and Special Agent Kuyrkendall in this case
22 initial the 302 to show that you've reviewed it and that it's
23 accurate?

24 A. Yes.

25 MR. PAGLIUCA: I'd like to display for the witness

LCHVMAX2

Richards - direct

1 what's been marked as JR-1, which is 3505-005 in the 3500
2 material.

3 THE COURT: Okay.

4 MR. PAGLIUCA: Thank you, your Honor.

5 MS. COMEY: No objection, your Honor.

6 THE COURT: Thank you.

7 MR. PAGLIUCA: So that should be for the witness, the
8 Court, and the courtroom deputy only please.

9 Q. Do you have that on your screen yet?

10 A. I see it, yes.

11 Q. If we look at the lower left corner of this, do you see
12 your name, Special Agent Kuyrkendall's name, and the initials?

13 A. Yes.

14 Q. And those are your initials?

15 A. Yes.

16 Q. And that means that you at the time reviewed this and
17 determined that it was accurate at the time; is that right?

18 A. Yes.

19 Q. Have you had a chance to review this before your testimony
20 here today?

21 A. Yes.

22 Q. I understand that this was a long time ago. And I'm
23 assuming, but you tell me if I'm incorrect, that you don't have
24 any current memory of doing this interview?

25 A. It was 14 years ago.

LCHVMAX2

Richards - direct

1 Q. Right. And you've done a lot of interviews between 14
2 years ago and now, I assume?

3 A. Probably thousands.

4 Q. Now, is part of the reason why you are trained to take
5 notes and to record events accurately, so that months or years
6 later you will have a document such as this that you can
7 testify from and be confident that what you put in the document
8 is accurate?

9 A. That's for reference, yes.

10 Q. Okay. What I'd like to do is direct you to some specific
11 statements in this JR-1 that we've marked for identification
12 purposes.

13 First of all, do you recall that on August 7th, 2007,
14 you spoke with Carolyn? And we're identifying this person only
15 by the name of "Carolyn."

16 A. Yes.

17 Q. And again, when you spoke with Carolyn, you were gathering
18 information relative to your investigation at that time;
19 correct?

20 A. That's correct.

21 Q. When you spoke with Carolyn, consistent with your training
22 and experience, you were attempting to get as much information
23 as possible; is that correct?

24 A. Yes.

25 Q. And you were not limiting any of the responses given to you

LCHVMAX2

Richards - direct

1 by Carolyn during that interview; correct?

2 A. Correct.

3 Q. In particular, I would like you to look at page 2,
4 paragraph -- full paragraph 3 of Exhibit JR-1.

5 MS. COMEY: May I have a moment to confer, your Honor?

6 THE COURT: Okay.

7 (Counsel conferred)

8 MS. COMEY: Thank you, your Honor.

9 THE COURT: Thank you.

10 Q. Middle of the page that begins with "Carolyn." Are you
11 there?

12 A. I have something pulled up here. I don't know if that's
13 the right paragraph that's pulled up or not.

14 Q. Okay.

15 MR. PAGLIUCA: Let me just confer, your Honor, to make
16 sure.

17 THE COURT: Sure.

18 (Counsel conferred)

19 THE COURT: And again, I just caution you not to use
20 the last name.

21 BY MR. PAGLIUCA:

22 Q. Do you recall at that time Carolyn told you that Carolyn
23 obtained Epstein's phone number from a telephone book?

24 A. That's what's in the 302, yes.

25 Q. Okay. And do you recall at that time also that Carolyn

LCHVMAX2

Richards - cross

1 told you that Epstein returned Carolyn's call?

2 A. That's what's here in the report.

3 MR. PAGLIUCA: I have no other questions, your Honor.

4 THE COURT: Okay.

5 MS. COMEY: Briefly, your Honor.

6 THE COURT: Yes.

7 MS. COMEY: May I inquire?

8 THE COURT: You may.

9 CROSS-EXAMINATION

10 BY MS. COMEY:

11 Q. Good morning, Special Agent Richards.

12 A. Good morning.

13 Q. Is a 302 report of an interview a verbatim report of a
14 witness's statement?

15 A. No.

16 Q. Is it a transcript of a witness's statement?

17 A. No, it isn't.

18 Q. What is it?

19 A. It's a summary of the results of our interview.

20 Q. Do you ever show witnesses your 302 reports and ask them to
21 confirm that they are accurate?

22 A. No.

23 Q. Did you show Carolyn this 302 report and ask her to confirm
24 it was accurate?

25 A. No.

LCHVMAX2

Richards - redirect

1 MS. COMEY: No further questions.

2 THE COURT: Mr. Pagliuca?

3 MR. PAGLIUCA: Thank you, your Honor.

4 REDIRECT EXAMINATION

5 BY MR. PAGLIUCA:

6 Q. Special Agent Richards, you're writing down accurately
7 what's being told to you during these interviews; correct?

8 A. As best as I can.

9 Q. And you're writing it down accurately because you may be
10 called to a witness stand to testify under oath about what
11 people told you; correct?

12 A. Correct.

13 Q. Thank you.

14 MR. PAGLIUCA: No further questions, your Honor.

15 THE COURT: Okay. Thank you, Special Agent Richards.

16 You may step down. You are excused.

17 THE WITNESS: Thank you, Judge.

18 (Witness excused)

19 THE COURT: And the defense may call its next witness.

20 MS. COMEY: May we confer briefly, your Honor?

21 THE COURT: You may.

22 (Counsel conferred)

23 MS. MENNINGER: Your Honor, at this time we would call
24 Agent Amanda Young.

25 THE COURT: Amanda Young may come forward.

LCHVMAX2

Young - direct

1 AMANDA YOUNG,

2 called as a witness by the Defendant,

3 having been duly sworn, testified as follows:

4 THE COURT: All right. Thank you.

5 Ms. Menninger, when you're ready, you may inquire.

6 MS. MENNINGER: Thank you, your Honor.

7 DIRECT EXAMINATION

8 BY MS. MENNINGER:

9 Q. Good morning, Ms. Young.

10 A. Good morning.

11 Q. You are the case agent assigned to this criminal case;
12 correct?

13 A. Yes, I'm one of the case agents.

14 Q. One of the case agents. And when were you assigned to this
15 case?

16 A. At the end of 2018.

17 Q. And you have been present here in the courtroom for the
18 majority of the trial testimony, right?

19 A. Yes, I have.

20 Q. You just heard the testimony of Special Agent Richards;
21 correct?

22 A. Yes.

23 Q. And would you agree with the testimony that he gave in
24 regards to the methods of training for taking notes in
25 preparing FBI 302s?

LCHVMAX2

Young - direct

1 A. Yes.

2 Q. Anything about what he said that you disagree with?

3 A. No. We try to take notes as accurately as possible and
4 then put them into a 302 document.

5 Q. Okay. And that's what you did in connection with this case
6 as well, correct?

7 A. Yes.

8 Q. So in some cases, at least as I understand it, you
9 physically took the notes and then typed up the 302 later; is
10 that right?

11 A. Yes. Sometimes I took the notes, sometimes my partner took
12 the notes.

13 Q. And your partner is Detective Byrnes?

14 A. Yes.

15 Q. And when one or the other of you takes the notes, do you
16 check the other's work?

17 A. We will both review the 302 before it's finalized and sign
18 off on it.

19 Q. And so in this case, I think you just heard Ms. Comey's
20 question to Special Agent Young, these are not meant to be
21 transcripts of the interviews, right?

22 A. No, they are not.

23 Q. It's a summary of what the witness said?

24 A. Yes.

25 Q. An accurate summary of what the witness said?

LCHVMAX2

Young - direct

1 A. As accurate as possible, yes.

2 Q. And you don't write down the questions that were asked,
3 right?

4 A. No.

5 Q. You don't have something that looks like a transcript?

6 A. Correct.

7 Q. We don't have the words that were used and the questions
8 that gave rise to the answers that are summarized in the 302,
9 right?

10 A. Correct.

11 Q. And these were not audio recorded?

12 A. No, they were not.

13 Q. Or video recorded?

14 A. No, they were not.

15 Q. With respect to -- if I could just ask quickly, first about
16 witness Annie Farmer, you know who she is, right?

17 A. Yes.

18 Q. And you interviewed her on a number of occasions over the
19 last couple of years, right?

20 A. Yes.

21 Q. One issue that came up with respect to Ms. Farmer's
22 testimony had to do with the boots. Do you remember the boots?

23 A. Yes.

24 Q. Just to be clear, the defense issued a subpoena for those
25 boots sometime earlier this year, right?

LCHVMAX2

Young - direct

1 MS. COMEY: Objection to foundation.

2 May I confer, your Honor?

3 THE COURT: Yes.

4 (Counsel conferred)

5 MS. COMEY: Objection withdrawn.

6 We've conferred, your Honor.

7 THE COURT: Okay.

8 MS. MENNINGER: Yes. Let me rephrase that.

9 BY MS. MENNINGER:

10 Q. Are you aware of the time when the boots were obtained from
11 Ms. Farmer?

12 A. I don't recall the specific date, but I know that it was
13 sometime this year.

14 Q. In June of this year, does that make --

15 A. I don't -- I don't remember the exact month.

16 Q. Okay. It was earlier than this fall, is that fair?

17 A. That's fair.

18 Q. So it wasn't in the midst of trial preparation, I guess is
19 the point that I need to make.

20 A. I don't -- I don't remember the exact time frame.

21 Q. Okay. I can pull up the report, I think.

22 Give me one second.

23 A. Okay.

24 Q. We'll pull that up in just a minute and come back to it.

25 Thank you though.

LCHVMAX2

Young - direct

1 I just wanted to clarify one thing. Ms. Farmer said
2 that she had reclaimed the boots by wearing them after some
3 time in the mid 2006 period, right? Do you remember that
4 testimony?

5 A. The testimony she gave in this courtroom?

6 Q. Yes.

7 A. I don't -- I don't remember the exact words she used, but I
8 know she talked about kind of taking back the boots.

9 Q. And she used the word "reclaim"?

10 A. I don't -- I don't remember what word she used.

11 Q. When you were interviewing her, when was the first time
12 that she mentioned to you anything about reclaiming the boots
13 or wearing the boots?

14 A. I think it was in more recent --

15 Q. In the trial prep time period?

16 A. I don't recall specifically, but I think it was in the more
17 recent interview so far.

18 Q. Okay. And you didn't write a report about that statement;
19 correct?

20 A. I don't recall.

21 Q. We may need to talk about that.

22 So with respect to interviews of Jane, you had done a
23 number of interviews with the prosecutors and your partner,
24 Detective Byrnes, about -- with Jane; correct?

25 A. Yes.

LCHVMAX2

Young - direct

1 Q. And those interviews began in September of 2019 and lasted
2 up until days before trial; correct?

3 A. That sounds about right.

4 Q. And you were there and a number of different U.S. Attorneys
5 were present, and Detective Byrnes was there on various
6 occasions, right?

7 A. On various occasions. It was different groups, yes.

8 Q. Okay. And you prepared handwritten notes of those
9 interviews and then did typewritten notes as well, correct?

10 A. Either I did or my partner did.

11 Q. And then if he did it, you checked his work; correct?

12 A. Yes.

13 Q. Okay. Next to you is a set of the 3500 materials, the
14 reports that relate to Jane. Can I ask you to take a look at
15 that folder. And I'm going to direct your attention to certain
16 ones, okay?

17 If I could have you look behind tab 2. And do you
18 recognize those?

19 A. Yes.

20 Q. Is that your handwriting?

21 A. It is.

22 Q. What was the date of this note that you took?

23 A. September 19th, 2019.

24 Q. Does that mean the day that you actually wrote it down?

25 A. Yes.

LCHVMAX2

Young - direct

1 Q. If I could direct your attention -- this was an interview
2 with Jane that you attended, right?

3 A. Yes.

4 Q. And her two attorneys attended as well, correct?

5 A. Yes.

6 Q. And if I could direct your attention to a line nine lines
7 down with a dash that begins "GM."

8 A. Okay.

9 Q. Can I have you read that line and the next line into the
10 record.

11 A. "GM walked by with dog. JE came up to meet her."

12 Q. Thank you.

13 And then now if I could direct your attention to the
14 tab behind the document behind tab 1.

15 Do you recognize this document?

16 A. Yes.

17 Q. And this is the FBI typewritten 302; correct?

18 A. Yes, that's correct.

19 Q. And you're the one that typed this up, right?

20 A. Yes.

21 Q. And this is the typewritten report from the handwritten
22 notes on September 19th; correct?

23 A. Yes, that's correct.

24 Q. But the typewritten report was prepared in December of
25 2019?

LCHVMAX2

Young - direct

1 A. No, it was actually drafted in October of 2019. The date
2 you're referring to is the date that it was serialized to the
3 case file.

4 Q. Okay. So it was drafted -- it was typed up on October 3rd,
5 a couple weeks after the interview?

6 A. Yes.

7 Q. And then it was entered into the system in December?

8 A. Correct.

9 Q. And we don't have a notice of when anyone reviewed it for
10 accuracy on the document, right?

11 A. No, the date of entry is when our supervisor signs off on
12 the reports.

13 Q. Okay. So if I could have you turn on this document to page
14 2, and direct your attention to the fourth full paragraph. In
15 the middle of that paragraph is a sentence that begins with the
16 word "in." If I could have you read that sentence.

17 THE COURT: I caution you not to use the last name.

18 MS. MENNINGER: Yes, your Honor. I apologize. Not to
19 use the witness's last name, but to substitute "Jane" for her
20 name.

21 MS. COMEY: Sorry, your Honor. I don't see where
22 we're being referred to.

23 MS. MENNINGER: On page 2 of 001 in the fourth full
24 paragraph, in the middle of the paragraph.

25 MS. COMEY: Got it. Thank you.

LCHVMAX2

Young - direct

1 A. I just want to make sure I'm in the right spot.

2 Are you referring to "In the beginning"?

3 Q. That's correct. Just that sentence.

4 A. Okay. "In the beginning, Kate would be with her mother and
5 brothers at Epstein's house."

6 (Continued on next page)

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LCHCmax3

Young - direct

1 BY MS. MENNINGER:

2 Q. And I think it's Jane, not Kate?

3 A. I'm sorry. I'm sorry.

4 Q. That's fine. If you don't mind reading it again with Jane.

5 A. In the beginning, Jane would be with her mother and
6 brothers at Epstein's house.

7 Q. Now, if I could have you take a look at the tab 3. Do you
8 recognize this report?

9 A. Yes.

10 Q. This one actually was authored by your partner, Mr. Byrne
11 or Detective Byrne; right?

12 A. Yes.

13 Q. But you checked his work?

14 A. Yes, I signed off on it.

15 Q. And this one relates to an interview that took place in
16 November of 2019; right?

17 A. Yes, that's correct.

18 Q. And if I could direct your attention on this interview with
19 Jane to the fourth full paragraph, the third line, begins Jane,
20 Jane was not. If you could read that sentence with Jane.

21 A. Jane was not sure if Maxwell ever called her to make
22 appointments.

23 Q. Thank you. And now if I could have you turn to tab 5. Are
24 you there?

25 A. Yes.

LCHCmax3

Young - direct

1 Q. Thank you. And this one is an interview that took place in
2 December of 2019; correct?

3 A. Yes, that's correct.

4 Q. And again, this one was written by Detective Byrne, but you
5 signed off on it; is that accurate?

6 A. Yes.

7 Q. If I could have you turn to page 3 of that report. If I
8 could ask you in the very first paragraph, substituting Jane's
9 name, to read the first three sentences of that paragraph that
10 begins with fairly, and just be cautious to use the name Jane.

11 A. Fairly early on, Maxwell joined in and started taking her
12 clothes off. This is about six months into being with them.

13 Kate --

14 Q. I'm sorry.

15 A. I'm sorry. Jane was still 14 at this time.

16 Q. And one more sentence.

17 A. Jane does not have a specific memory of the first time.

18 Q. Thank you. And now if I could have you turn to document
19 behind tab 8. Are you there?

20 A. Yes.

21 Q. This is from an interview that took place in February of
22 2020; correct?

23 A. Yes, that's correct.

24 Q. And you authored this typewritten report; correct?

25 A. Yes.

LCHCmax3

Young - direct

1 Q. If I could have you turn to page 5, and the last full
2 paragraph on that page, I'm going to read this, the first
3 couple sentences here and just let me know if I read anything
4 wrong. I'll substitute the name Jane again. Okay?

5 A. Okay.

6 Q. When Jane was asked if there were times where it was only
7 Epstein, Maxwell, and her in the room, Jane was not sure. As
8 Epstein progressed incidents sexually with Jane, it would go
9 back and forth between just being solely with Jane and going
10 back to the group setting.

11 Did I read that right?

12 A. Yes.

13 Q. And now I want to turn to page 7 of that same document.
14 Are you there?

15 A. Yes.

16 Q. And the last full paragraph, I'm going to just read one
17 sentence that begins on the fourth line of that paragraph.
18 This relates to the New Mexico trip. She, Jane, did not recall
19 specific abuse that may have occurred.

20 Do you see that?

21 A. Yes.

22 Q. And then just a few lines later, there is a separate
23 notation and it carries onto the next page. I'm going to read
24 that. Jane was asked if she recalled any specific abuse that
25 occurred in New Mexico and she stated that she was not sure.

LCHCmax3

Young - direct

1 Did I read that accurately?

2 A. Yes.

3 Q. And then on that same page, 8, in the fourth full
4 paragraph, the second sentence reads: Her first trip to New
5 York was to just go and have fun.

6 Did I read that correctly?

7 A. Yes.

8 Q. And I think there is one more on page 12 of this document.
9 If I could direct your attention to the fourth full paragraph,
10 the last three sentences of that paragraph. Are you there?

11 A. I'm not sure which paragraph.

12 Q. The fourth full paragraph. So it's the second from the
13 bottom.

14 A. Thank you.

15 Q. And then the last three lines of that paragraph. From when
16 Jane met Epstein to when she moved to New York, she lived in
17 the same house in Florida. This house was in a gated community
18 called Bear Lakes. It was a three-bedroom house.

19 Did I read that correctly?

20 A. Yes.

21 MS. MENNINGER: And if I could just briefly go back to
22 the Annie Farmer issue. If I could pull up on the screen for
23 the witness and the Court 3514-26.

24 Q. Do you have that in front of you?

25 A. I do.

LCHCmax3

Young - direct

1 Q. Does that refresh your recollection about the date that the
2 boots were seized?

3 A. This is a 302 of an interview with Annie.

4 MS. MENNINGER: Your Honor, we're going to stipulate
5 to the date of the seizure because I think that makes the most
6 efficient sense for use of the witness's time. I can read it
7 into the record later.

8 THE COURT: Ms. Comey.

9 MS. COMEY: So stipulated, your Honor. We'll check
10 the date, confirm the date of seizure, and then stipulate to
11 that date orally.

12 MS. MENNINGER: One more question for the witness,
13 though.

14 BY MS. MENNINGER:

15 Q. The discussion about Ms. Farmer wearing the boots happened
16 during a recent trial prep session; correct?

17 A. I believe so.

18 Q. And it was after the boots were seized; correct?

19 A. I believe so.

20 MS. MENNINGER: Thank you, your Honor. No further
21 questions.

22 THE COURT: Thank you. Ms. Comey.

23 MS. COMEY: Thank you, your Honor.

24 May I inquire?

25 THE COURT: You may.

LCHCmax3

Young - cross

1 CROSS-EXAMINATION

2 BY MS. COMEY:

3 Q. Good morning, Agent Young.

4 A. Good morning.

5 Q. Will you please tell the jury what you did before becoming
6 an FBI agent?

7 A. I was a child adolescent forensic interviewer.

8 Q. What is a child adolescent forensic interviewer?

9 A. I was trained in a research-based protocol to conduct
10 interviews of children to gather information when there are
11 allegations of child abuse.

12 MS. MENNINGER: Objection, your Honor. 702.

13 MS. COMEY: I have no intention of eliciting --

14 MS. MENNINGER: -- and no disclosure and --

15 THE COURT: I understand, Ms. Menninger. Let me hear
16 from you at the side, please.

17 (Continued on next page)

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LCHCmax3

Young - cross

1 (At the sidebar)

2 THE COURT: Where is this going?

3 MS. COMEY: Your Honor, I believe Agent Young will
4 testify about her experience conducting interviews and her
5 experience and training both before being at the FBI and as an
6 FBI agent in practices of conducting non-suggestive interviews.
7 This is relevant both because the defense asked a number of
8 questions about how they conduct interviews, so it's within the
9 scope of the direct. And also, the defense elicited expert
10 testimony from Dr. Loftus about how suggestive questioning and
11 leading questioning can lead to implanted memories. And the
12 premise, the basis for admitting that opinion in a letter that
13 was submitted to your Honor just this week was that there was
14 going to be a suggestion by the defense that the agents who
15 conducted interviews here conducted them in a leading fashion.
16 So this is responsive directly to the premise of that expert
17 testimony.

18 MS. MENNINGER: We were just precluded from asking any
19 questions about investigative techniques.

20 THE COURT: I mean, you want to open the door on how
21 interviews were conducted of these witnesses, that opens the
22 door. I think it's beyond the scope.

23 MS. MENNINGER: It is beyond the scope, your Honor.

24 MS. COMEY: I apologize, your Honor. I don't
25 understand what your Honor means by open the door.

LCHCmax3

Young - cross

1 THE COURT: If you want to go into the thoroughness
2 and carefulness and non-suggestiveness with which this witness
3 interviewed the alleged victims, your ballgame, but I actually
4 will sustain the beyond-the-scope objection.

5 (Continued on next page)

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LCHCmax3

Young - cross

1 (In open court)

2 MS. MENNINGER: Your Honor, can we strike the answer?

3 THE COURT: Jury will disregard the answer regarding
4 the agent's training in conducting interviews with children to
5 gather information.

6 MS. COMEY: I'll move on, your Honor.

7 THE COURT: Thank you.

8 BY MS. COMEY:

9 Q. Agent Young, did you participate in all of Jane's
10 interviews with law enforcement?

11 A. Yes, I did.

12 Q. During those interviews, was Jane able to talk about
13 everything that happened with Maxwell and Epstein in a single
14 meeting or did she disclose more over time?

15 A. No, she wasn't able to talk about everything in one
16 meeting. It was a process and she disclosed at different
17 points.

18 Q. Did you ever have to stop interviews with Jane when
19 discussing abuse involving Epstein and Maxwell?

20 MS. MENNINGER: Objection, your Honor. Beyond the
21 scope.

22 THE COURT: Sustained.

23 Q. Were you able to cover everything that Jane remembered
24 about Jeffrey Epstein and Ghislaine Maxwell in a single
25 interview?

LCHCmax3

Young - cross

1 MS. MENNINGER: Objection. Beyond the scope, your
2 Honor.

3 THE COURT: Sustained.

4 Q. Who was present in the room for interviews with Jane?

5 A. Her attorneys and Assistant United States Attorneys,
6 myself, my partner. In the initial interviews, it was a larger
7 group. Later, in later interviews, we condensed it down to
8 myself and another AUSA.

9 Q. And in your more recent interviews with Jane, who was in
10 the room?

11 MS. MENNINGER: Objection, your Honor. Beyond the
12 scope. I didn't ask about recent ones.

13 THE COURT: Sustained.

14 Q. I think you already addressed this a little bit on direct,
15 but just to be clear, are the reports that were read into the
16 record just now verbatim?

17 A. No.

18 Q. Are they transcripts?

19 A. No.

20 Q. What are they?

21 A. They're a summary of the interview with Jane.

22 Q. Did you ever ask Jane to review your reports to confirm
23 they were accurate?

24 A. No.

25 Q. To your knowledge, was Jane ever shown those reports before

LCHCmax3

Young - cross

1 she testified in court during this trial?

2 A. No, she was not.

3 MS. COMEY: Your Honor, may I have a moment?

4 THE COURT: You may.

5 MS. COMEY: Your Honor, may I confer with defense
6 counsel?

7 THE COURT: You may.

8 MS. COMEY: Your Honor, I think we need to approach.

9 THE COURT: Okay.

10 (Continued on next page)

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LCHCmax3

Young - cross

1 (At the sidebar)

2 MS. COMEY: Your Honor, I'm transitioning entirely
3 away from where we were at the prior sidebar. I was about to
4 switch to eliciting some prior consistent statements of Jane's.
5 I do believe the door has been opened for that, but I
6 understand defense counsel would object as beyond the scope.
7 But for efficiency purposes, I was going to ask her now while
8 she's on the stand about these prior consistent statements.

9 MS. MENNINGER: I mean, your Honor, opening the door
10 to prior consistent statements in this manner will then, on
11 recross, I think open the door to any number of other prior
12 inconsistent statements that your Honor just ruled out, and we
13 had to go through an entire process to get in the very few
14 prior inconsistent statements we did. The government hasn't
15 even told us now which prior consistent statement that they're
16 offering.

17 THE COURT: Rebuttal if it's beyond the scope. So
18 sustained with the opportunity to confer if they want to recall
19 the witness for rebuttal.

20 (Continued on next page)

LCHCmax3

Young - redirect

1 (In open court)

2 MS. COMEY: No further questions, your Honor.

3 MS. MENNINGER: Briefly, your Honor.

4 THE COURT: Thank you.

5 REDIRECT EXAMINATION

6 BY MS. MENNINGER:

7 Q. You used these interviews of Jane in the grand jury;
8 correct?

9 A. Not all of them. The interviews prior to the grand jury.

10 Q. Selective ones; right?

11 A. I'm not sure what you're --

12 Q. You chose which of these statements of Jane to present to
13 the grand jury; correct?

14 MS. COMEY: Objection, your Honor.

15 THE COURT: Sustained.

16 Q. You were just asked on cross examination whether Jane had
17 an opportunity to review these notes before she testified;
18 correct?

19 A. Yes.

20 Q. You could have shown her the notes before she testified;
21 right?

22 A. That's not our practice. We don't -- we don't show
23 witnesses notes taken by law enforcement.

24 Q. You couldn't have done it?

25 A. It's not ethical.

LCHCmax3

Young - redirect

1 Q. You chose not to review her prior reports with her;
2 correct?

3 A. Again, we don't -- we don't do that. Her memory is her
4 memory and we take the best notes we can, but we don't compare
5 our notes with her. That's not appropriate.

6 Q. You chose not to record the interviews?

7 A. No, we don't record.

8 Q. The FBI protocol provides for you to record interviews;
9 correct?

10 A. No, it doesn't.

11 Q. The FBI protocol provides for custodial situations to be
12 recorded; correct?

13 A. Yes, that's correct.

14 Q. And makes it optional for other situations; correct?

15 A. We don't -- we don't record witness interviews.

16 Q. I'm asking you about FBI protocol.

17 A. Yes, we record individuals who are in custody, but we don't
18 record victim witness interviews unless they're a minor.

19 Q. It's not an option?

20 A. It's not something we do. It's not our practice.

21 Q. Is it an option under the FBI protocols or not?

22 MS. COMEY: Objection, your Honor.

23 THE COURT: Sustained.

24 Q. Are you familiar with the Department of Justice obtaining
25 evidence protocols?

LCHCmax3

Young - redirect

1 MS. COMEY: Your Honor, I'm going to object. It's
2 beyond the scope.

3 THE COURT: Overruled. I just want you to use words
4 to be specific about what you're referring to.

5 MS. MENNINGER: I have a document that we have marked
6 for identification as AY-1. I can show it to the government.

7 THE COURT: Please.

8 Q. Are you familiar with the Department of Justice protocols
9 on electronic recording of statements?

10 MS. COMEY: Your Honor, I'm going to object. Beyond
11 the scope. And I'd want to be heard if there is going to be
12 further questions.

13 (Continued on next page)

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LCHCmax3

Young - redirect

1 (At the sidebar)

2 MS. COMEY: Your Honor, this is not an FBI protocol.

3 I think all of the predicate questions leading up to this
4 document was about FBI protocols. This is a Department of
5 Justice protocol that references the United States Marshal
6 Service. So I would object to further questioning or reading
7 from this.

8 MS. MENNINGER: It talks about the policy applicable
9 to FBI agents in the very first sentence.

10 MR. EVERDELL: Your Honor, this is from the Justice --

11 THE COURT: Just a second.

12 MR. EVERDELL: I'm sorry, your Honor.

13 MS. COMEY: Your Honor, I would also note that I
14 believe I have walked away from opening the door on
15 interrogating the methods used to conduct --

16 THE COURT: You asked if it was recorded. I mean --

17 MS. COMEY: That is true, your Honor.

18 THE COURT: I think it's the only reason it is within
19 the scope.

20 MS. COMEY: Your Honor, I did not ask if it was
21 recorded. I believe Ms. Menninger asked if it was. I asked if
22 it was a transcript.

23 THE COURT: Let me check. The question on cross was,
24 are they transcripts, are they verbatim. Not about recording.

25 MS. MENNINGER: Right. But the recording would give

LCHCmax3

Young - redirect

1 us a transcript.

2 MS. COMEY: Not necessarily, your Honor. We're not
3 being recorded right now and we're getting a transcript.

4 THE COURT: I'm going to sustain. Beyond the scope.

5 (Continued on next page)

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LCHCmax3

Young - redirect

1 (In open court)

2 Q. Are you aware of any witnesses in this case who were
3 recorded during their interviews?

4 MS. COMEY: Objection, your Honor.

5 THE COURT: Sustained.

6 MS. MENNINGER: No further questions, thank you.

7 MS. COMEY: Nothing, your Honor.

8 THE COURT: Agent Young, you may step down. You are
9 excused. Thank you.

10 (Witness excused)

11 Mr. Pagliuca, defense may call its next witness.

12 MR. PAGLIUCA: Thank you, your Honor. Our next
13 witness is Dr. Eva Dubin.

14 THE COURT: Eva Dubin may come forward.

15 EVA ADNERSSON DUBIN,

16 called as a witness by the Defendant,

17 having been duly sworn, testified as follows:

18 Please be seated. Once you're seated, please remove
19 your mask. And if you could speak directly into the microphone
20 and state and spell your name for the record, please.

21 THE WITNESS: My name is Eva Andersson. I also go by
22 Eva Andersson Dubin.

23 THE COURT: Could you spell your name, please.

24 THE WITNESS: E-v-a A-n-d-e-r-s-s-o-n.

25 THE COURT: And Dubin is spelled D-u-b-i-n?

LCHCmax3

Dubin - direct

1 THE WITNESS: Right.

2 THE COURT: You may inquire, Mr. Pagliuca.

3 MR. PAGLIUCA: Thank you, your Honor.

4 DIRECT EXAMINATION

5 BY MR. PAGLIUCA:

6 Q. Good morning. Is it Dr. Dubin?

7 A. Yes.

8 Q. Dr. Dubin, where do you live, not the address, but just
9 generally.

10 A. I live in New York City.

11 Q. Thank you. And how old are you, Dr. Dubin?

12 A. I'm 60.

13 Q. And I take it you are married by your description of your
14 last name?

15 A. Yes.

16 Q. And what is your husband's name?

17 A. Glenn Dubin.

18 Q. How long have you been married to Glenn Dubin?

19 A. 28 years.

20 Q. And do you and Mr. Dubin have any children?

21 A. Yes, we do.

22 Q. How many children do you have?

23 A. We have three children.

24 Q. What are the ages of your children, starting with the
25 oldest?

LCHCmax3

Dubin - direct

1 A. 27, 25, and 20. They are all about to be 21, 26, and 28.

2 Q. I see. They're about to have their next birthdays?

3 A. Correct.

4 Q. It took a second to process that. I'm not going to ask you
5 their names, but what are their genders, starting with the 25,
6 almost going to be 28?

7 A. Female.

8 Q. I'm sorry. 27, almost going to be 28. Female. 25, almost
9 going to be 26?

10 A. Male.

11 Q. And 20, almost going to be 21?

12 A. Female.

13 Q. So two girls and a boy?

14 A. Right.

15 Q. What does Mr. Dubin do for employment?

16 A. He is selfemployed.

17 Q. And is he in the financial industry?

18 A. Correct.

19 Q. And are you employed as a medical doctor?

20 A. I am not.

21 Q. Were you employed as a medical doctor?

22 A. I was.

23 Q. And when you were employed as a medical doctor, what,
24 generally, did you do?

25 A. I was an internist.

LCHCmax3

Dubin - direct

1 Q. And were you or are you licensed to practice medicine in
2 the State of New York?

3 A. I am.

4 Q. Just briefly, where did you attend medical school?

5 A. I attended medical school at the Karolinska Institute in
6 Stockholm for three and a half years, and then UCLA medical
7 school.

8 Q. And did you graduate from UCLA medical school?

9 A. Yes, I did.

10 Q. Did you complete a residency for internal medicine?

11 A. Yes, I did.

12 Q. And where did you complete your residency for internal
13 medicine?

14 A. In Lennox Hill Hospital.

15 Q. Here in New York?

16 A. Yes.

17 Q. I want to ask you some questions about a man named Jeffrey
18 Epstein. Did you know Mr. Epstein?

19 A. Yes, I did.

20 Q. And how did you know Mr. Epstein?

21 A. We dated off and on from the start of 1983.

22 Q. So 1983 until approximately when did you date Mr. Epstein
23 off and on?

24 A. Approximately 1990, 1991.

25 Q. Okay. And after you stopped dating Mr. Epstein in

LCHCmax3

Dubin - direct

1 approximately 1990 or 1991, did you and Mr. Epstein remain
2 friends?

3 A. Yes, we did.

4 Q. And after you stopped dating Mr. Epstein, did you have
5 regular contact with Mr. Epstein on a friend basis?

6 A. Yes, we did.

7 Q. Both when you were dating Mr. Epstein and after you were
8 dating Mr. Epstein, did you travel on airplanes, either owned
9 or controlled by Mr. Epstein?

10 A. Yes, I did.

11 Q. Did you sometimes travel with Mr. Epstein himself?

12 A. Yes, and my family.

13 Q. And did you sometimes travel without Mr. Epstein on the
14 plane, but with other people?

15 A. I cannot recall if I traveled without Mr. Epstein on the
16 flight.

17 Q. When you traveled with Mr. Epstein, do you recall traveling
18 with other adults, as well?

19 A. There were other adults, as well. I don't recall --

20 Q. Sure. And I'm not asking for names. I'm just asking
21 generally, do you recall traveling with Mr. Epstein on his
22 planes with other adults?

23 A. Yes, I did.

24 Q. And I think you said that sometimes you and your family
25 would travel with Mr. Epstein on Mr. Epstein's planes; is that

LCHCmax3

Dubin - direct

1 right?

2 A. That's correct.

3 Q. I take it traveling and being around Mr. Epstein after you
4 stopped dating him -- let me back up.

5 When did you and Mr. Dubin get married?

6 A. We got married at 1994 on my birthday.

7 Q. And after 1994, did you and Mr. Dubin continue to be
8 friendly with Mr. Epstein and travel with Mr. Epstein?

9 A. Yes.

10 Q. After you had children with Mr. Dubin, did Mr. Epstein get
11 to know your children?

12 A. Yes, he did.

13 Q. And were you and Mr. Dubin comfortable with the
14 relationship between Mr. Epstein and your children?

15 A. Yes, we were.

16 Q. Did it appear to you that Mr. Epstein was fond of your
17 children?

18 A. Yes, he was.

19 Q. And did it appear to you that your children were fond of
20 Mr. Epstein?

21 A. Yes, they were.

22 Q. Would you describe the relationship between your children
23 and Mr. Epstein as an uncle-like relationship?

24 A. I would.

25 Q. Did they have a nickname for Mr. Epstein?

LCHCmax3

Dubin - direct

1 A. Yes. They called him Uncle F.

2 Q. Uncle F, as in Frank, but short for Jeff; is that correct?

3 A. Yes.

4 Q. During the time that you dated Mr. Epstein, so '83 through
5 '91 I think roughly is what you said, did you observe any
6 inappropriate conduct between Mr. Epstein and any teenage
7 females?

8 MS. MOE: Objection.

9 MR. PAGLIUCA: What's the basis for the objection,
10 your Honor?

11 THE COURT: Just a minute. Grounds.

12 MS. MOE: Your Honor, may we approach?

13 THE COURT: You may.

14 (Continued on next page)

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LCHCmax3

Dubin - direct

1 (At the sidebar)

2 MS. MOE: Thank you. Your Honor, this is an issue I
3 believe we raised in advance of trial about the relevance of
4 asking witnesses about uncharged conduct and whether the
5 defendant or Epstein committed crimes in other instances that
6 are not charged. I think the foundation here is about the
7 entirety of a very broad relationship between, I think, the
8 1980s and the present, and the question is whether, over
9 several decades, she was aware of any kind of inappropriate
10 conduct with other people. It's extraordinarily broad. And as
11 we briefed in advance of trial, there is no relevance, it's
12 inappropriate to suggest that there are uncharged conduct on
13 other occasions is probative of what happened with the
14 particular individuals at issue in this case. So we think this
15 line of questioning is inappropriate.

16 I would also note, your Honor, as we briefed in
17 advance of this witness's testimony, we don't believe there is
18 a foundation to suggest that this person was in the room with
19 Jane. We think our notes on this are clear, that Jane has
20 expressly said that this person was not involved in sexualized
21 massages. So we think that questions that are designed to
22 impeach and the misimpression that defense counsel has created
23 are inappropriate.

24 And for those reasons, we would object.

25 THE COURT: So the specific objection is to other than

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Dubin - direct

1 what I allowed in overruling your motion to preclude is
2 timeframed. So you want the timeframe narrowed to the window
3 in which the witness testified that there was sexualized
4 massages with --

5 MS. MOE: Yes, your Honor, and limited to particular
6 individuals who are at issue in this case. It's not before the
7 jury whether Maxwell and Epstein committed misconduct with
8 other people, the question is whether she has relevant
9 knowledge about misconduct with the people who are at issue in
10 this case. The absence of misconduct with other people who are
11 not at issue in this case is not relevant.

12 THE COURT: I think you should narrow the timeframe in
13 which the witness testifies.

14 MR. PAGLIUCA: I can do that, your Honor.

15 Just so the record is clear, I don't believe this was
16 litigated at all pretrial. This witness was not questioned
17 about Ms. Maxwell or not being there, which were litigated
18 pretrial. This really is foundational to the next question,
19 which is going to be after she stopped dating him, which is
20 then into the relevant timeframe, did she see any of this
21 activity, any of which she considered to be inappropriate
22 activity. So that's actually the next question. So I'm moving
23 out of this into that. But it seems to me to be logically
24 relevant, your Honor, frankly because if she had seen any of
25 that activity, I doubt she would have been dating him or would

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Dubin - direct

1 be on his planes, et cetera. So it is foundational for her
2 knowledge about Mr. Epstein, about why she was with Mr. Epstein
3 during the relevant timeframe, why her children are with
4 Mr. Epstein during the relevant timeframe.

5 THE COURT: You've already established she was
6 comfortable with the children. So I think you have -- you'll
7 move on.

8 MR. PAGLIUCA: Yes, I am.

9 THE COURT: I'll sustain on the current question and
10 then move on.

11 (Continued on next page)

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Dubin - direct

1 (In open court)

2 THE COURT: Go ahead, Mr. Pagliuca.

3 MR. PAGLIUCA: Thank you, your Honor.

4 BY MR. PAGLIUCA:

5 Q. Dr. Dubin, so after you stopped dating Mr. Epstein, and
6 let's focus on roughly 1994 through, let's say, 2004, did you
7 observe any inappropriate conduct between Mr. Epstein and any
8 teenage females?

9 A. I did not.

10 MR. PAGLIUCA: I'd like to show you some pictures that
11 have been admitted under seal. So we just need to show those
12 to the witness, the Court, and I will tell the government which
13 exhibits those are. I'm happy to show them to the government.

14 MS. MOE: Thank you, your Honor. I have those.

15 THE COURT: Can you give the trial mark and yes, for
16 the Court and the witness.

17 MR. PAGLIUCA: Yes, your Honor. So the first exhibit
18 is Government Exhibit 241, which I believe has been admitted
19 under seal previously.

20 MS. MOE: That's correct, your Honor.

21 THE COURT: Okay. Thank you.

22 MR. PAGLIUCA: So this will be for the Court and the
23 witness. And do we have that up, your Honor?

24 THE COURT: We do.

25 MR. PAGLIUCA: If I could ask Ms. Lundberg to expand

LCHCmax3

Dubin - direct

1 Government Exhibit 241, the photograph that is closest to the
2 foreground in the picture.

3 BY MR. PAGLIUCA:

4 Q. Do you see that, Dr. Dubin?

5 A. I do.

6 Q. Do you recognize anyone in that expanded part of exhibit
7 241?

8 MS. MOE: I'm sorry, your Honor, the question is
9 without saying that person's name. I just wanted to make sure
10 that was clear.

11 Q. The question was very simple. Do you recognize anyone?

12 A. I do.

13 Q. Okay. Do you recognize one or two people in that
14 photograph?

15 A. Two people.

16 Q. And without saying -- well, is one of the people
17 Mr. Epstein?

18 A. That's correct.

19 Q. And without saying the name of the other person, is the
20 other person one of your children?

21 A. Yes.

22 Q. Okay. And in terms of the age range, do you recall whether
23 this is your now 27, 25, or 20?

24 A. The 20.

25 Q. I'm assuming you were aware that Mr. Epstein had this

LCHCmax3

Dubin - direct

1 picture?

2 A. I have never seen this picture before.

3 MR. PAGLIUCA: If we could now show the witness
4 Government Exhibit 248, please. This is just for the witness
5 and the Court. If we could expand the photograph that's in the
6 center of that bookcase.

7 Q. Again, Dr. Dubin, do you recognize two people in that
8 photograph?

9 A. I do.

10 Q. And is one of those people Mr. Epstein?

11 A. Correct.

12 Q. And is one of those people one of your children?

13 A. Correct.

14 Q. And is that the same child or a different child that we saw
15 in the other photograph?

16 A. Different child.

17 Q. And order age, which child is this?

18 A. 27.

19 Q. So this is your oldest child in this photograph; is that
20 right?

21 A. Correct.

22 Q. And do you have any sense of when this photograph might
23 have been taken?

24 A. I have never seen this photo before.

25 MR. PAGLIUCA: Then if we can look at Government

LCHCmax3

Dubin - direct

1 Exhibit 249, please. Again, this is under seal and just for
2 the witness.

3 Q. I don't know if you need that expanded or not, Dr. Dubin,
4 but we can if you need it expanded.

5 THE COURT: If they can make it a little larger.

6 MR. PAGLIUCA: Certainly, your Honor.

7 Q. Do you recognize that person, without saying the name,
8 Dr. Dubin?

9 A. I do not.

10 MR. PAGLIUCA: Thank you. We can take that down.

11 THE WITNESS: Possible to have some water?

12 THE COURT: Yes. I'm sorry.

13 MR. PAGLIUCA: May I approach, your Honor?

14 MS. MOE: I can do it.

15 THE COURT: Thank you.

16 THE WITNESS: Thank you.

17 MR. PAGLIUCA: Let me know when you're ready,
18 Dr. Dubin.

19 THE WITNESS: I'm ready.

20 MR. PAGLIUCA: Thank you.

21 BY MR. PAGLIUCA:

22 Q. Dr. Dubin, earlier we discussed traveling on Mr. Epstein's
23 airplanes. I want to talk about some, what have been admitted
24 as flight records with you.

25 First of all, prior to coming to court today, have you

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Dubin - direct

1 ever seen any documents that are supposed to be flight records
2 of Mr. Epstein's plane flights?

3 A. I have, yes.

4 Q. And do you recall seeing those records in media
5 publications?

6 A. Yes.

7 Q. And when you saw those records in the media publications,
8 did you believe whatever you saw in the media to be accurate or
9 inaccurate?

10 MS. MOE: Objection, your Honor. Can we be more
11 specific?

12 THE COURT: Please.

13 Q. Did you read whatever you saw in the media that purported
14 to be the flight records?

15 MS. MOE: Same objection, your Honor.

16 MR. PAGLIUCA: I'm not sure what the objection is,
17 your Honor.

18 THE COURT: The flight records you're referring to,
19 what exactly, timeframe, quantity?

20 MR. PAGLIUCA: I think it's --

21 THE COURT: If you could add specificity, then we'll
22 see from there.

23 BY MR. PAGLIUCA:

24 Q. Do you recall what you saw in the media when you looked at
25 what looked like flight records in the media?

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Dubin - direct

1 A. I don't really recall exactly what I saw. I saw my name
2 and flights.

3 Q. Do you recall when you saw these in the media?

4 A. I can't recall.

5 Q. When you read what you believed to be flight records in the
6 media, did anything strike you as being inaccurate in what was
7 being published from your memory?

8 MS. MOE: Same objection, your Honor.

9 THE COURT: I'll permit response to this question. So
10 when you read what you believed to be flight records in the
11 media, did anything strike you as being inaccurate?

12 A. I saw that the media had copied the flight book
13 incorrectly.

14 Q. Okay. What did you believe was incorrect in what the media
15 had copied incorrectly?

16 MS. MOE: Your Honor, we'd object. There is evidence
17 in the record that he can ask the witness about. I'm not sure
18 what we're talking about even at this point.

19 MR. PAGLIUCA: I can discuss this at sidebar if you
20 want, your Honor. I think it's relevant.

21 THE COURT: We'll give the jury their morning break
22 and we'll discuss it.

23 Members of the jury, we'll take a 15-minute break.

24 (Continued on next page)

LCHCmax3

Dubin - direct

1 (Jury not present)

2 THE COURT: You may step down, Dr. Dubin.

3 (Witness excused)

4 Go ahead, Ms. Moe.

5 MS. MOE: Yes, your Honor. Thank you. So as the
6 Court is aware, there are flight records in evidence. We would
7 certainly have no objection to Mr. Pagliuca asking this witness
8 whether she recognizes them, whether they're accurate, the
9 like, that is entirely appropriate, but I think it's very
10 confusing to ask about what her memory is of what she saw in
11 the media and whether that's accurate. I think there is no way
12 for the jury to tell what witness we're talking about, whether
13 it's the items in evidence -- I think the proper way to do this
14 is to show the witness the flight records and ask whether
15 they're accurate or not. If we're talking about things that
16 are not in evidence and whether things that are not in evidence
17 are accurate, I don't see the relevance of it, and that, of
18 course, wouldn't be appropriate.

19 THE COURT: What is the relevance, Mr. Pagliuca?

20 MR. PAGLIUCA: I think the relevance is patent, your
21 Honor.

22 THE COURT: Perhaps, but not to me.

23 MR. PAGLIUCA: Here's why. These flight records were,
24 in some fashion, leaked to the media.

25 THE COURT: When you say these flight records, you

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Dubin - direct

1 mean the flight records that are in evidence?

2 MS. MOE: That's not correct, your Honor. The
3 entirety of the flight records in evidence are not public.
4 That's the exact reason why portions of them are under seal and
5 redacted. So we're not talking about the same flight records.

6 MR. PAGLIUCA: Well, I disagree, but the point is, we
7 had a live witness who reviewed what purported to be in the
8 media her travel with Mr. Epstein. That media exposure has
9 influenced other people and I believe, frankly, influenced
10 other people, relative to my client, putting my client on
11 flights saying my client did things. It is the exposure to
12 this information. This witness, I believe, will testify, and
13 has so indicated to the government, that what she viewed was
14 inaccurate information. That's the import of it.

15 THE COURT: So the theory is media defined broadly,
16 could be a blog, a tweet, contains any inaccurate information,
17 it is relevant to ask this witness as to the accuracy of that?

18 MR. PAGLIUCA: It is inaccurate as to her personally.

19 THE COURT: I understand. But let's say you pull from
20 some blog post, something perhaps inaccurate; relevant to ask
21 this witness?

22 MR. PAGLIUCA: About her and flight records.

23 THE COURT: Whatever it is from whatever source, there
24 is flight records that show she went to the moon, you should
25 ask her about it?

LCHCmax3

Dubin - direct

1 MR. PAGLIUCA: No, I'm not asking her about flight
2 records going to the moon.

3 THE COURT: So it does matter what you're asking her
4 about.

5 MR. PAGLIUCA: Of course.

6 THE COURT: So I'll sustain at least on that ground,
7 401, 403.

8 MR. PAGLIUCA: Okay. I understand.

9 THE COURT: We can take our break.

10 (Recess)

11 THE COURT: So I note, I did, at 11:54, Ms. Menninger,
12 receive an application. I think one of the things I asked for
13 was a proposed order, which I don't see.

14 When would the government like to respond?

15 MS. COMEY: Your Honor, Mr. Rohrbach is currently
16 writing our response. I suspect we can get it to your Honor by
17 the beginning of the lunch break.

18 THE COURT: Thank you. And Mr. Pagliuca, I just want
19 to make sure, we're moving on from the media?

20 MR. PAGLIUCA: Yes.

21 THE COURT: All right.

22 MS. MOE: Very briefly, your Honor, to flag some
23 logistics that Mr. Pagliuca and I worked out. My understanding
24 is that he intends to publish a redacted version flight
25 records --

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Dubin - direct

1 THE COURT: Can we have the witness wait outside for a
2 moment. I apologize. Thank you. Go ahead.

3 MS. MOE: To flag in advance, I think Mr. Pagliuca
4 intends to offer a redacted version of a government exhibit
5 that we've agreed upon but is not yet in evidence, and so I
6 anticipate that he'll offer a redacted version of the
7 government exhibit, which we prepared and we won't object. And
8 that will be the exhibit that is published.

9 (Continued on next page)

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LCHVMAX4

Dubin - direct

1 THE COURT: Okay.

2 MR. PAGLIUCA: So the Court knows, Exhibit 662 is the
3 flight logs. We're going to offer 662-R. I will be -- I would
4 be publishing 662-R to everyone when I refer to 662-R. There
5 are two instances where I will need to refer to 662, and I will
6 only display those to the witness and the Court.

7 MS. COMEY: And just to clarify, your Honor, when
8 Mr. Rodgers testified, we offered a version of 662-R that had
9 many more redactions. And after conferral with the defense,
10 this new 662-R is a much more narrowly tailored redacted
11 version; so it will replace the 662-R that was previously
12 offered.

13 THE COURT: Okay.

14 Perhaps a different mark for clarity.

15 MR. PAGLIUCA: I'm happy to call it and we can remark
16 it 662-RR.

17 MS. COMEY: That's fine, your Honor.

18 THE COURT: Great. Thank you.

19 Okay. And just to be clear, Mr. Pagliuca, when those
20 records are introduced, I'm just trying to avoid the sidebars,
21 is it then going to be about any comparison with what she saw
22 in the media?

23 MR. PAGLIUCA: No.

24 THE COURT: Okay.

25 MR. PAGLIUCA: I didn't think you would let me do

LCHVMAX4

Dubin - direct

1 that, so --

2 THE COURT: That doesn't always stop you. I wanted to
3 make sure we were on the same page.

4 MR. PAGLIUCA: Like any good lawyer, your Honor --

5 THE COURT: There's no doubt about the zealousness of
6 anyone in this room.

7 Are we ready?

8 MR. PAGLIUCA: I am ready to resume.

9 MS. MOE: Yes, your Honor. Thank you.

10 THE COURT: Now we can get the witness and bring in
11 the jury. Thank you, Ms. Williams.

12 (Jury present)

13 THE COURT: All right. Mr. Pagliuca, you may continue
14 with your direct examination of Dr. Dubin.

15 Dr. Dubin, I remind you, you are under oath.

16 You may inquire.

17 MR. PAGLIUCA: Thank you, your Honor.

18 At this point, based on the discussion with the
19 government, I would offer Government Exhibit 662-RR at this
20 point, your Honor.

21 MS. MOE: No objection.

22 THE COURT: Thank you. 662-RR is admitted.

23 (Defendant's Exhibit 662-RR received in evidence)

24 MR. PAGLIUCA: And for the record, your Honor, as we
25 discussed, 662-RR is the redacted version of 662, which are the

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Dubin - direct

1 Dave Rodgers flight records.

2 THE COURT: Thank you.

3 MR. PAGLIUCA: Thank you, your Honor.

4 BY MR. PAGLIUCA:

5 Q. Dr. Dubin, I'd like to just go through a few examples of
6 flight records. And I understand these are not your records,
7 but they've been admitted in evidence. I want to ask you some
8 questions. I'm not going to go through all of the entries,
9 just a few examples, okay?

10 MR. PAGLIUCA: If we can show Dr. Dubin, please,
11 GX-662, now marked RR, at page 30, please.

12 Q. Do you have that on your screen, Dr. Dubin?

13 THE COURT: It's up and you'll need to enlarge.

14 MR. PAGLIUCA: I will, your Honor.

15 If we can blow up the entry with the 26 on the side.
16 It's going to be flight number 587, which is in the middle of
17 the page.

18 Has that been expanded, your Honor?

19 THE COURT: It has.

20 MR. PAGLIUCA: And this can be displayed for everyone.

21 THE COURT: Oh, yes, yes. Right.

22 MR. PAGLIUCA: This is RR.

23 THE COURT: I don't see a mark on it, but can we just
24 get a confirmation that it's RR?

25 MR. PAGLIUCA: We have the first page that we can

LCHVMAX4

Dubin - direct

1 display for you, your Honor. And I've shown this to the
2 government.

3 THE COURT: It says R, but --

4 MR. PAGLIUCA: We added an R during the break.

5 THE COURT: Okay. All right. Yes.

6 MR. PAGLIUCA: Might I inquire, your Honor?

7 THE COURT: You may. And yes, this may be published.

8 MR. PAGLIUCA: Thank you, your Honor.

9 And now if we can blow up -- this is RR. We need to
10 go to page 30, please. And the 26 in the middle, those two.

11 BY MR. PAGLIUCA:

12 Q. Do you see those entries, Dr. Dubin?

13 A. Yes, I do.

14 Q. Now, this is a long time ago, and I expect that you don't
15 remember this flight; is that correct?

16 A. What year is this flight?

17 Q. 1994.

18 A. I do not remember the flight, no.

19 Q. Okay, then that's fine.

20 I just wanted to ask you some questions about some of
21 the names that are listed, and this is the remarks section.

22 When we're looking to the right, there is JE. Do you
23 know who that refers to?

24 A. I assume it's Jeffrey Epstein.

25 Q. Okay. And then there is Eva Andersson, A-N-D-E-R-S-S-O-N.

LCHVMAX4

Dubin - direct

1 That would be you?

2 A. Correct.

3 Q. And then someone named Frances Jardine.

4 Do you recall Frances Jardine?

5 A. I recall Frances. I did not know that her last name was
6 Jardine.

7 Q. Do you recall that that was someone that Mr. Epstein was
8 dating in 1994?

9 A. Yes.

10 Q. Okay. It appears from this flight record that you and
11 Mr. Epstein and Frances Jardine went to DCA -- which I will
12 represent to you is Washington, D.C. airport -- and then
13 returned the same day. And I guess the question is do you
14 recall making that trip?

15 MS. MOE: Your Honor, I'd object to counsel
16 testifying.

17 MR. PAGLIUCA: I'm just orienting the witness, your
18 Honor.

19 THE COURT: All right. I'll allow it, but then let's
20 get to direct questions.

21 MR. PAGLIUCA: Yes, your Honor.

22 Q. Do you recall making this trip?

23 A. I do not.

24 Q. Okay.

25 MR. PAGLIUCA: If we can go down to the second to the

LCHVMAX4

Dubin - direct

1 last entry.

2 Q. And again, I'm directing your attention to the people
3 there. Do you recognize this as yourself, Mr. Epstein, and
4 again, Frances Jardine?

5 A. I do.

6 Q. Okay. And I'm assuming, again -- and this is in 1994 --
7 that you don't have a specific memory of this flight; is that
8 right?

9 A. I do not remember this flight.

10 Q. Okay.

11 MR. PAGLIUCA: If we can now turn to page 39 of
12 662-RR. The entry -- fourth and fifth entries from the top.
13 This would be November '95, November 21st, November 26th.

14 Q. Can you see that, Dr. Dubin?

15 A. Yes, I can.

16 Q. Okay. In the remarks column, the exhibit reflects JE, AS.
17 Do you know who "AS" might have been?

18 MS. MOE: Objection.

19 A. I don't.

20 THE COURT: Overruled. Overruled.

21 You may answer. Do you know?

22 THE WITNESS: I don't know who "AS" is.

23 Q. Okay. Then there is Eva. That would be you; is that
24 correct?

25 A. That's correct.

LCHVMAX4

Dubin - direct

1 Q. Glen, that would be Glen Dubin?

2 A. Yes.

3 Q. And then baby. Did you have a child at that point in time?

4 A. What date is this?

5 Q. This is November 21st, 1995.

6 A. Yes, I did.

7 Q. Okay. And then there is an entry, one female. Did you
8 bring a nanny with you after you had a child on the plane?

9 A. Most likely, yes.

10 Q. Okay. And this record reflects a flight from Teterboro,
11 which is in New Jersey, to Palm Beach Island.

12 MS. MOE: Same objection, your Honor.

13 THE COURT: I'll sustain now. Move on.

14 MR. PAGLIUCA: Understood, your Honor.

15 Q. Do you recall taking this trip over Thanksgiving with your
16 husband and child to Palm Beach?

17 A. I don't recall.

18 MS. MOE: Objection.

19 THE COURT: I'm sorry.

20 MS. MOE: Objection to leading.

21 MR. PAGLIUCA: "Recall" is not leading.

22 THE COURT: I'll allow it.

23 MR. PAGLIUCA: Thank you.

24 A. I don't recall this specific trip, no.

25 Q. Okay. Now I'd like to turn to GX-12, which is under seal

LCHVMAX4

Dubin - direct

1 and should only be shown to the witness and the Court.

2 THE COURT: Okay.

3 Q. Dr. Dubin, do you have GX-12 in front of you?

4 THE COURT: Just to caution the witness not to read
5 the name on the document; not to say out loud the name on the
6 document.

7 A. I have the document, yes.

8 Q. Okay. And could you just read it to yourself, please, and
9 not read it out loud.

10 A. Okay.

11 Q. The exhibit GX-12 has the name of a person. And again,
12 we're not using the name of the person. But I want to see if
13 you see the name of the person on GX-12, without saying it?

14 A. Yes, I do.

15 Q. Okay. We are referring to that person as Jane, okay?

16 A. Okay.

17 Q. And without saying her name, do you recall meeting the
18 person identified in GX-12 at any point in time?

19 A. I don't recall ever meeting this person.

20 Q. Okay.

21 MR. PAGLIUCA: We can take that down.

22 I'd like to show the witness GX-662, page 44, which is
23 unredacted, so just to the witness and the Court please.

24 THE COURT: Okay. Ms. Moe?

25 MS. MOE: Yes, your Honor.

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Dubin - direct

1 THE COURT: Thank you.

2 Q. Do you have that in front of you?

3 A. I do.

4 MR. PAGLIUCA: And I'd like to focus on the second and
5 third lines up from the bottom, page 44. And if you could blow
6 up just for the Court and the witness the second and third
7 lines from the bottom, please. That starts with seven and an
8 11.

9 Q. Have you been able to read that, Dr. Dubin?

10 A. I can't read everything, but I can read some of it.

11 Q. Okay. The person that we're referring to as Jane, do you
12 see Jane's name next to the flight entry 916, without saying
13 her name?

14 A. Yes.

15 Q. Okay. And again, you do not -- I'm assuming you do not
16 recall meeting anyone named Jane on this flight; is that
17 correct?

18 MS. MOE: Objection. Leading.

19 THE COURT: Sustained.

20 Q. Do you recall meeting anyone named Jane on this flight?

21 A. I don't remember this flight.

22 Q. Okay.

23 A. Or anyone on this flight.

24 Q. Okay. That's fine.

25 MR. PAGLIUCA: We can take that down. And can we put

LCHVMAX4

Dubin - direct

1 up 662, page 44-R, the same entries, and display those to the
2 jury please, your Honor.

3 THE COURT: Ms. Moe?

4 MS. MOE: No objection, your Honor.

5 THE COURT: All right. Go ahead.

6 MR. PAGLIUCA: We need to make sure this is the RR,
7 redacted version, page 44. And it is.

8 Q. This is the same document that you were just shown just
9 with a blackout spot there. Do you see that, Dr. Dubin?

10 A. Yes.

11 Q. Okay. And the flight entry has "Eva" in it?

12 A. Correct.

13 Q. Do you recognize any of the other individuals listed in the
14 remarks section?

15 A. The first one or the second one?

16 Q. Let's start with the first one and then move on to the
17 second one.

18 A. Do I recognize their names?

19 Q. Yes.

20 A. I recognize Sophie.

21 Q. Who do you recognize Sophie as being?

22 A. Sophie Biddle was someone that worked for Jeffrey.

23 Q. Okay. Do you know what she did?

24 A. I believe she was a massage therapist.

25 Q. Okay. And do you recognize any other names on those

LCHVMAX4

Dubin - direct

1 entries?

2 A. I've heard the name Jeff Schantz, but I can't remember who
3 he is.

4 Q. Okay. Anyone else in that entry, which is 915?

5 A. I can't read the name after Jeff Schantz.

6 Q. Neither can I.

7 And then below that, do you see any names that you
8 recognize?

9 A. I see my husband's name, yes.

10 Q. Okay. And then the next entry, flight 916, do you see any
11 names that you recognize in that entry?

12 A. I see my name, I see JE, I see Sophie. I can't read what
13 comes after Sophie.

14 Q. That's fine.

15 MR. PAGLIUCA: We can take that down now.

16 I'd like to next show the witness 662-RR, page 49.

17 THE COURT: And if it's 662-RR, it may be published.

18 MR. PAGLIUCA: Thank you, your Honor.

19 And if we can go to the entries that are the fifth and
20 fourth entries from the bottom.

21 Q. I want to focus on someone named -- well, do you recognize
22 the name Celina Midelfart?

23 A. I do.

24 Q. Do you recognize that as someone that was dating
25 Mr. Epstein in the '97 time frame?

LCHVMAX4

Dubin - direct

1 MS. MOE: Objection. Leading.

2 THE COURT: Sustained.

3 Q. Do you know Celina Midelfart?

4 A. I know who she is, yes.

5 Q. How do you know who she is?

6 A. She was a girlfriend of Jeffrey Epstein's.

7 Q. Okay. This flight appears to be on August 20th and 23rd,
8 1997. Do you have any memory of being on this flight?

9 A. I don't remember this flight at all.

10 Q. Okay.

11 MR. PAGLIUCA: Next I'd like to turn to 662
12 unredacted. So this should be just for the witness and the
13 Court, please. Page 55, third line up from the bottom. If we
14 can expand that, please.

15 Q. Do you have that in front of you, Dr. Dubin?

16 A. It's only one entry, right?

17 Q. Yes, just one entry. Thank you.

18 A. Yes.

19 Q. Okay. And again, I want to focus on the names in that
20 entry, which is from 1998. And it looks like it's May 3rd,
21 1998. And without saying the name that we're not saying, do
22 you see that name in that entry?

23 A. Yes, I do.

24 Q. Okay. And are there other names in that entry that you
25 recognize, without saying who they are at this point?

LCHVMAX4

Dubin - direct

1 A. Yes.

2 Q. Okay. Is one of your children's names on this flight list?

3 A. Yes.

4 Q. And that's fine.

5 And then do you see that you and your husband are on
6 this flight as well?

7 A. Correct.

8 Q. And then the last entry that I would like to look at, and
9 we can use the redacted version for this, so this will be
10 662-RR, page 114.

11 MR. PAGLIUCA: And may we publish this, your Honor?

12 THE COURT: Yes.

13 MR. PAGLIUCA: I'd like to look at the entry eight
14 lines up from the bottom which begins with a 19. And expand
15 that, please.

16 Q. Do you see that entry, Dr. Dubin?

17 A. I do.

18 Q. And again, focusing on the remarks section, do you
19 recognize names there?

20 A. I do.

21 Q. And are some of your children on that flight, without
22 identifying them by name?

23 A. Yes, misspelled name.

24 Q. Sure. Okay. This is from TIST to PBI; is that right?

25 A. I don't know what TIST is.

LCHVMAX4

Dubin - direct

1 Q. That was going to be my next question.

2 THE COURT: Just to make sure I'm right, this is RR;
3 correct?

4 MR. PAGLIUCA: It is RR, your Honor.

5 THE COURT: Okay.

6 MR. PAGLIUCA: We can take that down.

7 Q. That's all I'm doing with the flight records. I just have
8 a few more questions, Dr. Dubin.

9 THE COURT: Go ahead.

10 Q. Dr. Dubin, during the 1994 to 2004 time frame, were you
11 ever introduced to any other person named Eva who was dating
12 Mr. Epstein?

13 A. Not that I can recall.

14 Q. Were you ever introduced to anyone else named Eva who had a
15 close relationship, to your knowledge, with Mr. Epstein?

16 A. Not that I can recall.

17 Q. Okay. And I need to ask a couple of final questions about
18 the person that we identified in Exhibit 12, the person that
19 we're calling Jane. And I apologize for asking these
20 questions, okay?

21 Have you ever been in a group sexual encounter with
22 the person we are calling Jane?

23 A. Absolutely not.

24 Q. Okay. Have you ever been in a group sexualized massage
25 with Jane?

LCHVMAX4

Dubin - cross

1 A. I have not.

2 Q. Thank you.

3 MR. PAGLIUCA: That's all I have, your Honor.

4 Thank you.

5 THE COURT: Okay. Ms. Moe.

6 MS. MOE: Thank you, your Honor.

7 CROSS-EXAMINATION

8 BY MS. MOE:

9 Q. Good afternoon, Dr. Dubin.

10 A. Good afternoon.

11 Q. To be clear, your first name is Eva; is that correct?

12 A. That's correct.

13 Q. Are you the only person named Eva in the whole wide world?

14 A. It's a very, very common name in the Scandinavia, northern
15 Europe, and here.

16 Q. In the course of your life, have you met many, many people
17 named Eva?

18 A. Many --

19 MR. PAGLIUCA: Your Honor, I object to the relevance
20 of these questions.

21 THE COURT: Overruled.

22 A. Many, many, many.

23 Q. Do you know the first name of every person Jeffrey Epstein
24 ever met?

25 A. Absolutely not.

LCHVMAX4

Dubin - cross

1 Q. You were asked some questions on direct about your contacts
2 with Jeffrey Epstein, so I want to ask you about some time
3 periods in particular.

4 Focusing on the time frame from 1994 to 2004, how
5 often did you spend time in Jeffrey Epstein's house in Palm
6 Beach?

7 A. Not that often. We live in New York City and we would only
8 go to Palm Beach on vacations and occasionally long weekends.

9 Q. And when you say "not that often," can you explain for the
10 jury what kind of frequency we're talking about?

11 A. Very hard to say because there's so many years. But in
12 Palm Beach specifically?

13 Q. Yes, just focusing on Palm Beach from 1994 to 2004, how
14 often were you in that house in Palm Beach?

15 A. Maybe four times per year. It's hard -- I really can't
16 remember.

17 Q. Did you know what was going on in that house on a
18 day-to-day basis?

19 A. Absolutely not.

20 Q. I'm going to ask you just a few questions about what was
21 going on in your life during those years, focusing on the 1990s
22 and, in particular, between 1994 and 2000.

23 In 1994, were you living in Paris?

24 A. Yes, we were.

25 Q. And in 1995, your first child was born; is that right?

LCHVMAX4

Dubin - cross

1 A. That's correct.

2 Q. And then your second child was born later in the 1990s?

3 A. 1997.

4 Q. And so you had a lot going on in the 1990s; is that right?

5 A. That's correct.

6 Q. I want to ask you now about your relationship with Jeffrey
7 Epstein and Ghislaine Maxwell. And in particular, I want to
8 ask you about your observations of the relationship between
9 Ghislaine Maxwell and Jeffrey Epstein.

10 Did you ever have any conversations with Jeffrey
11 Epstein about the nature of his relationship with Ghislaine
12 Maxwell?

13 MR. PAGLIUCA: Your Honor, I'm going to object to this
14 as being hearsay, calling for a hearsay response.

15 THE COURT: Just a moment.

16 Sustained.

17 Q. Dr. Dubin, based on your conversations -- well, I'll
18 withdraw that and rephrase.

19 Did you have occasions in the 1990s to observe the
20 interactions between Ghislaine Maxwell and Jeffrey Epstein?

21 MR. PAGLIUCA: I'm going to object to this as being
22 vague, time frame, and lacking in foundation.

23 THE COURT: Foundation, overruled.

24 Time frame, sustained.

25 Q. Dr. Dubin, focusing on the time frame from 1994 to 2000,

LCHVMAX4

Dubin - cross

1 during those years, did you have occasion to observe the
2 interactions between Ghislaine Maxwell and Jeffrey Epstein?

3 A. Yes. I can't remember specific things, but yes.

4 Q. In general, based on your observations of their
5 interactions, at the time, was it your understanding that they
6 were in a relationship?

7 MR. PAGLIUCA: Your Honor, objection.

8 Lack of foundation.

9 THE COURT: Overruled. You may answer.

10 A. It's hard to define, I think, "relationship." But they
11 were living in the same house.

12 Q. And did you have an understanding at the time that they had
13 an open relationship?

14 MR. PAGLIUCA: Objection. Lack of foundation.

15 THE COURT: Sustained.

16 Q. Based on your observations and interactions with Maxwell
17 and Epstein, did you have an understanding during the years
18 we've been talking about that they had an open relationship?

19 MR. PAGLIUCA: Objection. Lack of foundation.

20 THE COURT: I'll take an answer to the question.

21 Do you need to hear it again?

22 THE WITNESS: Yes, please.

23 THE COURT: Based on your observations and
24 interactions with Ms. Maxwell and Mr. Epstein, did you have an
25 understanding during the years we've been talking about that

LCHVMAX4

Dubin - cross

1 they had an open relationship?

2 THE WITNESS: I can't really say that I knew whether
3 they did or did not.

4 BY MS. MOE:

5 Q. Based on your interactions with them in the 1990s, it was
6 your understanding at the time that Maxwell was responsible for
7 navigating all of the details of Mr. Epstein's personal life;
8 is that correct?

9 MR. PAGLIUCA: Object to the lack of foundation, your
10 Honor. And it's also a compound question.

11 THE COURT: Sustained.

12 Q. In the 1990s, what was your understanding of what Maxwell's
13 role was in Epstein's life?

14 MR. PAGLIUCA: Again, I object to the lack of
15 foundation and the time frame, your Honor.

16 THE COURT: Sustained.

17 Q. Focusing on the time period from 1994 and 2000, did you
18 have an understanding of what Maxwell's role was in Epstein's
19 life?

20 A. I think I do.

21 Q. What kinds of things did you see Maxwell doing for Jeffrey
22 Epstein between 1994 and 2000?

23 A. I can't say that I saw what she did, but my understanding
24 was that --

25 MR. PAGLIUCA: I'm going to object to the rest of

LCHVMAX4

Dubin - cross

1 this, your Honor, as being lacking in foundation and hearsay.

2 THE COURT: Sustained.

3 Q. From your conversations with Ghislaine Maxwell between 1994
4 and 2000, what kinds of things would she tell you about that
5 she did for Jeffrey Epstein?

6 MR. PAGLIUCA: Your Honor, this is beyond the scope of
7 my direct examination, so I object to this as well.

8 THE COURT: Sustained.

9 Q. On direct examination, you were asked some questions about
10 your memories of meeting people. Do you remember being asked
11 those questions?

12 A. When were the questions?

13 Q. My question is do you remember Mr. Pagliuca asking you some
14 questions about whether you remembered meeting certain people?

15 A. On the flights?

16 Q. Yes.

17 A. Yes, I do.

18 Q. So I want to ask you a few questions about your memory.

19 Dr. Dubin, without getting into any personal medical
20 details, are you having some issues with your memory?

21 A. Yes, I do.

22 Q. Again, without getting into details because I don't want to
23 invade your privacy, can you just explain for the jury what you
24 mean by that?

25 A. It's very hard for me to remember anything far back. And

LCHVMAX4

Dubin - cross

1 sometimes I can't even remember things from last month. And my
2 family notices it and I notice it and it's been an issue.

3 Q. And is that because you've been treated for particular
4 medical conditions?

5 MR. PAGLIUCA: Your Honor, I think this is beyond the
6 scope of what needs to be discussed at this point.

7 THE COURT: Is this the last question?

8 MS. MOE: Yes, your Honor.

9 THE COURT: Nothing -- just the question is, is it
10 related to medical issues?

11 MS. MOE: Yes, your Honor.

12 THE COURT: I'll allow it.

13 A. I believe it is.

14 MS. MOE: Just one moment, your Honor.

15 THE COURT: Okay.

16 (Counsel conferred)

17 MS. MOE: Nothing further, your Honor.

18 Thank you. Thank you, Dr. Dubin.

19 THE COURT: Mr. Pagliuca.

20 MR. PAGLIUCA: I have no redirect, your Honor.

21 THE COURT: Thank you.

22 Dr. Dubin, you may step down.

23 You are excused. Thank you.

24 THE WITNESS: Thank you so much.

25 (Witness excused)

LCHVMAX4

Healy - direct

1 THE COURT: All right. Defense may call -- we have
2 about ten minutes before the lunch break. Defense may call its
3 next witness.

4 MS. MENNINGER: At this time we call Michelle Healy.

5 THE COURT: Michelle Healy may come forward.

6 MICHELLE HEALY

7 called as a witness by the Defendant,
8 having been duly sworn, testified as follows:

9 THE COURT: You may inquire.

10 MS. MENNINGER: Thank you, your Honor.

11 DIRECT EXAMINATION

12 BY MS. MENNINGER:

13 Q. Good afternoon, Ms. Healy.

14 A. Good afternoon.

15 Q. How old are you?

16 A. I'm 47.

17 Q. And where do you live?

18 A. I live in Dallas, Texas.

19 Q. Are you married?

20 A. I am.

21 Q. And what do you do for a living?

22 A. I'm a housewife.

23 Q. What does your husband do?

24 A. He's an architect.

25 Q. There in Texas?

LCHVMAX4

Healy - direct

1 A. No, in Albuquerque, New Mexico.

2 Q. And do you have any siblings?

3 A. I have a sister.

4 Q. What's her name?

5 A. Shannon.

6 Q. And where does she live?

7 A. She lives in Albuquerque.

8 Q. Was there a point in time in which you lived in New York?

9 A. Yes.

10 Q. When was that?

11 A. I'm born and raised in New York. I grew up on Long Island.

12 So 1974 to about 1999.

13 Q. And I want to direct your attention to years around the mid
14 '90s, to '96 or so.

15 A. Okay.

16 Q. Where were you working in around 1996?

17 A. J. Epstein and Company.

18 Q. And how did it come to pass that you were working at J.
19 Epstein and Company?

20 A. How did I receive the job?

21 Q. Yes.

22 A. Needed somebody to fill in. My sister was working there,
23 so I just filled in. I had a previous job that I was working
24 at, so I was just there to fill in.

25 Q. Great. So what was your previous job?

LCHVMAX4

Healy - direct

1 A. I was working at Pete's Tavern.

2 Q. And I think you said your sister was working at J. Epstein;
3 is that right?

4 A. Yes, she was a receptionist.

5 Q. And at some point did someone ask you to come fill in? Do
6 you know who that was?

7 A. I can't recall that.

8 Q. Okay. But your sister was working there before you?

9 A. Yes.

10 Q. And when you came to fill in, what job did you do when you
11 came to fill in at J. Epstein and Company?

12 A. Just errands.

13 Q. And where was J. Epstein and Company?

14 A. 457 Madison Avenue.

15 Q. How long did you end up working at J. Epstein and Company?

16 A. I think I was there from 1996 until about 1999.

17 Q. And where did you go in 1999?

18 A. I went to New Mexico.

19 Q. So just focusing on that period of time, 1996 to 1999,
20 while you were working at J. Epstein and Company, did you meet
21 Jeffrey Epstein?

22 A. Yes.

23 Q. How did you meet him?

24 A. He was my boss.

25 Q. And what were your roles and responsibilities during that

LCHVMAX4

Healy - direct

1 entire three-year period?

2 A. I was receptionist for a good part of the time. So I did
3 errands, answered phones, and then I was his assistant for a
4 bit. So really running around New York City working for my
5 bosses.

6 Q. Okay. And when you were working as a receptionist, where
7 were you situated within the office?

8 A. So if you walk into the office, you come out of the
9 elevator, I'm the first desk. I'm the first person that you
10 would have seen.

11 Q. Okay. So if people came to visit the office in that time
12 period, you were the first person that they would see?

13 A. Yes.

14 Q. And when you were working as Mr. Epstein's assistant, were
15 you in a -- sitting in a different place in the office?

16 A. I was just in the front of the office.

17 Q. Okay.

18 A. So --

19 Q. And also when you're sitting in the front of the office,
20 could visitors see you when they came to visit?

21 A. Yes.

22 Q. Can you remember the names of some of your coworkers when
23 you worked in the office between '96 and '99?

24 A. Yes. There was Kimberly, there was Lauren, there was Eric,
25 there was Darren, there was Jeff, and that's about all I can

LCHVMAX4

Healy - direct

1 remember.

2 Q. Did you ever meet Ghislaine Maxwell?

3 A. I did.

4 Q. And who was she?

5 A. She was my boss as well.

6 Q. Do you see her in the courtroom?

7 A. I do.

8 Q. And where is she and what is she wearing?

9 A. She is right there, and she's wearing a black mask.

10 MS. MENNINGER: If the record could reflect
11 identification of Ghislaine Maxwell.

12 THE COURT: It may so reflect.

13 MS. MENNINGER: Thank you.

14 Q. What kinds of things did you see Ghislaine doing in the
15 office?

16 A. She oversaw properties and decorating and, you know, that
17 kind of stuff.

18 Q. Were you reporting directly to her?

19 A. I reported to her and I reported to Jeffrey as well.

20 Q. And when you talked about running all over New York, what
21 kinds of things were you doing in your roles running around New
22 York?

23 A. To be quite honest, it's a long time ago. If documents
24 needed to be dropped off or picked up or just really -- I
25 really can't answer it because it's so long ago, to be quite

LCHVMAX4

Healy - direct

1 honest.

2 Q. And how old were you in '96?

3 A. I was born in 1974, so in my twenties.

4 Q. What were your impressions of Ghislaine Maxwell as a boss?

5 A. She's fantastic.

6 Q. Why do you say that?

7 A. She taught me a lot. I respected her. She was tough. But
8 she was great.

9 Q. Did she ever tell you not to look people in the eye when
10 you were talking to them?

11 A. No.

12 Q. Did she ever give you directions about how you should speak
13 to other people?

14 A. No.

15 Q. In your capacity of running around, did you ever work out
16 of any other location besides 457 Madison?

17 A. No.

18 Q. Did you ever go to any of Mr. Epstein's properties?

19 A. The only time I went, I went to Zorro Ranch. My sister got
20 into a very bad car accident and broke her jaw. And Ghislaine
21 was kind enough to take me there. I was working, but at least
22 to set eyes on my sister because she was so hurt.

23 Q. And where was your sister working at that time?

24 A. She was on the ranch.

25 Q. And do you know how long she worked on the ranch?

LCHVMAX4

Healy - direct

1 A. I don't.

2 Q. Was it a short period of time or multiple years?

3 A. It was multiple years.

4 Q. And this accident that you described her being injured,
5 that happened while she was working at Zorro Ranch?

6 A. Yes.

7 Q. And is that the time that you went to visit her?

8 A. Yes. And that's the only time that I went anywhere.

9 Q. I want to ask you a little bit about some of the other
10 people. Did you come to know a woman named Emmy Tayler?

11 A. I did.

12 Q. And do you know where Emmy Tayler was from?

13 A. I think London.

14 Q. Did she have an accent?

15 A. Yes.

16 Q. Did you socialize with Ms. Tayler?

17 A. I did.

18 Q. And can you just kind of describe what types of things you
19 and Ms. Tayler would do together?

20 A. We were friends. You know, we would go out. You know,
21 again, it's so long ago.

22 Q. Was she about your age?

23 A. I think so.

24 Q. And you guys hung out together just in the city --

25 A. Yeah. Not on a regular basis, but did I socialize with her

LCHVMAX4

Healy - direct

1 on occasion? Yes.

2 Q. Okay.

3 MS. MENNINGER: I want to show the witness and the
4 Court only an exhibit that's been previously entered under
5 seal, Government Exhibit 12.

6 THE COURT: Okay. Just the witness and the Court.

7 MS. MENNINGER: Yes.

8 Q. And Michelle, I'm going to ask you to take a look at this
9 document, not read anything out loud, but just take a look at
10 it and see if you see a name listed there.

11 A. I do.

12 Q. Okay. And without saying the name, I want to direct you
13 that we're going to refer to that person as Jane, okay?

14 A. Okay.

15 Q. And so I'll refer to her as Jane, and you should only refer
16 to her as Jane.

17 A. Okay.

18 Q. Do you recognize Jane's real name?

19 A. Yes.

20 Q. Is that someone that you met?

21 A. I did meet her.

22 Q. Where do you recall meeting Jane?

23 A. In the office. I was told that it was Jeffrey's
24 goddaughter.

25 Q. And you were in the office and she was in the office?

LCHVMAX4

Healy - direct

1 A. Yes.

2 Q. Do you remember her being with anyone else when she came to
3 the office?

4 A. I know her mom --

5 Q. And don't say her mom's name.

6 A. No. I know her mom. Her mom would come in quite
7 frequently, if I remember correctly. But I didn't see much of
8 Jane.

9 Q. And do you remember getting phone calls from either Jane or
10 her mother that you answered?

11 A. The mother would call to speak to Jeffrey; but Jane, no.

12 Q. How old did Jane appear to you when you saw her in the
13 office?

14 A. I never even thought about it. She looked like a grown-up
15 to me.

16 Q. Was she wearing makeup and --

17 A. She had a lot of makeup on.

18 Q. Did you ever socialize with Jane?

19 A. When I was out with Emmy. Emmy was closer to her, like
20 I -- I didn't socialize with Jane. But on occasion, maybe
21 twice, she would have been there. But, again, it wasn't on
22 like a -- I didn't even have her phone number, let's just put
23 it that way.

24 Q. At the time you were working at J. Epstein and Company and
25 hanging out with Emmy in the late '90s in New York, was there

LCHVMAX4

Healy - direct

1 any other Michelle that you saw in the office, for example?

2 A. No.

3 Q. Was there any other Michelle that hung out with Emmy that
4 you are aware of?

5 A. Not that I'm aware of. But she had a lot of friends, so
6 I -- I can't speak for her.

7 Q. Was there any other Michelle that you saw when you saw Emmy
8 with Jane?

9 A. Not that I can recall.

10 Q. I'm sorry to ask you this, but were you ever involved in
11 any group sexualized massages with Jane?

12 A. Absolutely not.

13 Q. Were you ever involved in any group sexualized massages
14 with Jeffrey Epstein?

15 A. Absolutely not.

16 Q. Did you have anything to do with massages in your job with
17 Jeffrey Epstein or anyone around the office that you met
18 through Jeffrey Epstein?

19 A. Absolutely not.

20 Q. Have you been contacted by the FBI to speak to them in
21 connection with this case?

22 A. Yes.

23 Q. When was the first time they contacted you?

24 A. I can't give you the exact date.

25 Q. Was it within the last week?

LCHVMAX4

Healy - cross

1 A. Yes.

2 MS. MENNINGER: If I could have one moment, your
3 Honor.

4 THE COURT: You may.

5 (Counsel conferred)

6 MS. MENNINGER: No further questions, your Honor.

7 Thank you.

8 THE COURT: Ms. Comey?

9 MS. COMEY: Thank you, your Honor.

10 CROSS-EXAMINATION

11 BY MS. COMEY:

12 Q. Good afternoon.

13 A. Good afternoon.

14 Q. Are you the only Michelle in the world?

15 A. I hope not.

16 Q. Have you met other people named Michelle?

17 A. I sure have.

18 Q. Okay. Do you know the first name of every person that
19 Jeffrey Epstein interacted with in the late '90s?

20 A. No.

21 Q. Do you know whether he had masseuses named Michelle?

22 A. No.

23 Q. You worked in Jeffrey Epstein's office; correct?

24 A. Yes.

25 Q. You did not work in any of his homes; is that right?

LCHVMAX4

Healy - cross

1 A. No.

2 Q. You've never visited his Palm Beach house, have you?

3 A. Nope.

4 Q. Just got to finish the question so the court reporter can
5 get it all down. So just let me finish, okay?

6 You've never been to the Palm Beach house; is that
7 right?

8 A. Correct.

9 Q. Okay. Have you ever been to his New York residence?

10 A. Just to drop off documents, but never spent any time there.
11 It was just you delivered something.

12 Q. So you were never a guest at that home?

13 A. No.

14 Q. Never stayed over at that home?

15 A. No.

16 Q. Never went beyond the front entrance of that home?

17 A. No.

18 Q. Okay.

19 And the only home you've ever been inside of was on
20 Zorro Ranch one time?

21 A. Yes.

22 Q. You never flew on any of Jeffrey Epstein's private planes,
23 did you?

24 A. No.

25 Q. You never traveled with Jeffrey Epstein, did you?

LCHVMAX4

1 A. No.

2 MS. COMEY: May I have a moment, your Honor?

3 THE COURT: You may.

4 (Counsel conferred)

5 MS. COMEY: Nothing further.

6 THE COURT: Okay.

7 MS. MENNINGER: No redirect. Thank you, your Honor.

8 THE COURT: Okay. Thank you, Ms. Healy.

9 You may step down. You are excused. Thank you.

10 (Witness excused)

11 THE COURT: And we'll break for lunch, members of the
12 jury.

13 Ms. Healy, if you could just step this way.

14 Thank you.

15 And then, members of the jury, enjoy your lunch.

16 We'll see you in about an hour. Thank you.

17 (Jury not present)

18 THE COURT: All right. Let's see.

19 Matters to take up.

20 MS. MOE: Yes, your Honor.

21 We just wanted to follow up on an issue we'd raised
22 this morning about confirming that AUSA Alex Rossmiller has
23 been released from defense subpoena.

24 THE COURT: Ms. Menninger.

25 MR. PAGLIUCA: Given the Court's rulings, your Honor,

LCHVMAX4

1 I don't really think there would be any need to have them under
2 subpoena. So, yes, the answer is yes.

3 THE COURT: Yes. Okay.

4 MS. MOE: Thank you, your Honor. We'll let him know.

5 THE COURT: Okay. Other matters?

6 MS. MOE: Not from the government, your Honor.

7 MR. EVERDELL: Your Honor, I think just over the lunch
8 break the parties are going to confer over some stipulations.
9 And we should hopefully have things hammered out on those when
10 we return. But we'll use the lunch break to do that. We may
11 ask for a little bit more time just to get everything written
12 down and marked properly, but that's the next task.

13 THE COURT: Okay.

14 I think this is yours, Ms. Menninger. So I will look
15 at during lunch break the application that came in a little
16 before noon for assistance of the marshals to enforce the trial
17 subpoena. And I think we just got the letter from the
18 government.

19 Just quickly, Ms. Menninger, I think your -- I just
20 looked very briefly at your declaration, and it indicated that
21 you've made efforts to contact this witness, but there's no
22 details. Do you know if the witness is represented?

23 MS. MENNINGER: I do not.

24 THE COURT: Could you pull up the mic. Thank you.

25 MS. MENNINGER: Your Honor, I don't believe the

LCHVMAX4

1 witness is represented in connection with this case.

2 THE COURT: Okay.

3 MS. MENNINGER: There was no counsel appointed for
4 this witness as there were with other witnesses.

5 THE COURT: And so the efforts made to contact the
6 witness consisted of what?

7 MS. MENNINGER: Your Honor, I was not the one doing it
8 myself. I can get the detail from my assistants who were
9 making the calls, and also our investigator that was making the
10 calls. I can get the dates and times of the calls. I don't
11 have that on me at the moment.

12 THE COURT: Okay. I think I need to understand, since
13 I'm -- given where we are and what I'm -- in the trial, and I
14 see that the subpoena -- so the subpoena was -- the return date
15 was for the first day of trial.

16 So I would like details as to what efforts were made
17 to contact the witness. I guess the other question is the
18 testimony that you're seeking from this witness is the same
19 essentially as the last two witnesses?

20 MS. MENNINGER: It's very similar, your Honor.
21 There's only one distinction with this one. On this one, Jane
22 told the government early on that Kelly could confirm her story
23 about what was going on. That's in the 3500. I can pull up
24 the exact verbiage. And she also gave the woman's last name.
25 So it was highly specific reference that this -- she also said

LCHVMAX4

1 that this person was involved in the massages in a way that the
2 last two witnesses were claimed to have been.

3 THE COURT: When did you receive that 3500 material?

4 MS. MENNINGER: That would probably have been on
5 October 11th, your Honor.

6 THE COURT: Okay. And Ms. Moe, did you have
7 something?

8 MS. MOE: Your Honor, I was just going to clarify.

9 I think Ms. Menninger is referring to the 3500
10 materials. With respect to the matters that are before the
11 jury, the testimony was about a Kelly. So in that respect, the
12 testimony would have to mirror the past two witnesses about are
13 you a person named Kelly.

14 But I recognize the Court's question was about 3500
15 material. And when the defense was on notice of this issue, I
16 just want to clarify in terms of the anticipated scope of the
17 testimony. I can't imagine, given that record and
18 cross-examination of Jane and the Court's other rulings about
19 investigative steps, that there would be anything other than
20 what we've just seen now twice.

21 MS. MENNINGER: Actually, I asked one other question
22 of Jane, which was, Do you recall her last name? Because I had
23 it --

24 THE COURT: And she said yes, if I remember, and then
25 you didn't ask --

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1 MS. MENNINGER: Well, at the time, because I was not
2 in touch with that witness, I didn't know if we were going to
3 move to have her testify under her first name, given --

4 THE COURT: And did you so move?

5 MS. MENNINGER: I did not with respect to this witness
6 because I hadn't spoken to her. The witnesses that we've
7 moved --

8 THE COURT: Right. But so you've never sought
9 anonymity with respect to this witness.

10 MS. MENNINGER: That's correct.

11 MS. MOE: I also add, your Honor, that when defense
12 counsel wanted to put in the record the first and last names of
13 folks when there were sensitivities, they wrote them down on a
14 piece of paper. There were a million different ways to get
15 that before the jury, and they chose not to.

16 MS. MENNINGER: I understand that the cross -- or the
17 direct would be based on what the questions were of Jane. I'm
18 not here to dispute that. I'm just telling the Court in terms
19 of who it is. She told the government the last name and what
20 she told the government.

21 THE COURT: I understand. Which just indicates that
22 the defense has been on notice of this person, which I presume
23 is what -- since October, as someone who Jane indicated was
24 involved in the sexualized massages. I presume that's why you
25 noticed this person Kelly as a defense witness and issued a

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1 trial subpoena weeks ago.

2 MS. MENNINGER: Yes, your Honor.

3 I can make a representation about the number of names
4 that were mentioned in the volumes of 3500 material. I know
5 your Honor has received the testifying Witness 1, but I can
6 tell your Honor there was approximately 500 nontestifying
7 witnesses with similar volumes of interviews with those
8 individuals. So the fact that we received it on October 11th
9 doesn't mean that's the day we saw this.

10 THE COURT: Of course. Fair enough.

11 I'm just trying to understand why I got an application
12 at 11:54, it was almost -- 11:54, seeking enforcement of a
13 trial subpoena regarding a witness who's been disclosed, a
14 potential defense witness who's been disclosed for months, who,
15 the defense noticed and attempted to serve a subpoena on, who,
16 unlike the other witnesses the defense attempted to serve a
17 subpoena on, you received no contact.

18 I know you're busy. I get that. You have a
19 million -- and I mean that genuinely, obviously. I know this
20 team -- both teams are working extremely hard. This one is
21 just a little hard to understand, unless maybe you thought I
22 would exclude the witness.

23 (Continued on next page)

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1 MS. MENNINGER: That was an application, your Honor.

2 THE COURT: It was an application. It was an
3 application that you asked to respond to at -- I think it was
4 6 o'clock last night. So I didn't get your response on that
5 until 6 o'clock last night. I ruled as fast as I could, which
6 meant last night, I think it was probably after 11:00 p.m. or
7 close to midnight, but thought it was important to give that
8 resolution as soon as I could once the issue was raised and I
9 had full briefing.

10 Even if there hadn't been an application to preclude
11 that witness, you hadn't taken steps to enforce the subpoena
12 until 11:55 a.m. today. I'm going to look at the materials,
13 but I just want to have the factual record that I need to make
14 a determination.

15 MS. MENNINGER: I can email chambers as soon as I
16 gather the dates and times of the communication efforts. I can
17 put that in a writing, this way your Honor has a factual record
18 on it.

19 MS. MOE: Just with respect to developing a record on
20 this issue, I just want to make sure it's clear that when we
21 produced 3500 materials, we designated them for testifying
22 witnesses, which was a much narrower scope. Accompanied with
23 that, I think, earlier than October, was a letter identifying
24 the particular victims in this case. The materials with
25 respect to Jane talked about the very, very limited number of

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1 people who Jane recalled in particular being present for these
2 group sessions. I don't know the exact number off the top of
3 my head, but I think it is just the people who Ms. Menninger
4 asked about on cross examination and those particular first
5 names. So I want to make sure the record is clear, that it's
6 not the case that the 3500 materials had hundreds of names of
7 people --

8 THE COURT: Can you just give me one second. Sorry.
9 Go ahead.

10 MS. MOE: I just want to make sure the record was
11 clear that in the materials relating to Jane that we produced
12 in October, it's not the case that those materials contain
13 hundreds of names of people. In fact, it was, I want to say,
14 five or fewer. But Ms. Menninger has those materials and it's
15 a very narrative scope. So I just want to make sure the record
16 is clear on that in terms of when the relevance of that would
17 have become apparent and how specific it was.

18 THE COURT: And the address or contact information
19 that you used to try to contact this witness, do you have any
20 basis -- what is the basis to the current contact information?

21 MS. MENNINGER: She was served personally by a process
22 server, and with that handover, I believe she was handed the
23 contact information to get in touch with us to be placed on
24 call. We had a standard letter that we gave to all of the
25 witnesses we've placed on call.

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1 THE COURT: Okay. I will look at it and see what the
2 request is.

3 The issue that you noted last night, Ms. Menninger,
4 that you said needed to be done on Monday, what is that? There
5 was something last night when we talked about the defense would
6 likely finish today, you caveated that there was one small
7 short matter that would be done on Monday, and I don't think I
8 know what that is.

9 MS. MENNINGER: I think it's the witness from London,
10 your Honor, that you discussed with Mr. Everdell earlier.

11 MR. EVERDELL: I believe that's what we were referring
12 to.

13 THE COURT: I didn't realize that.

14 MR. EVERDELL: I thought I actually said, your Honor,
15 another witness, a short witness that we might need to put on
16 on Monday.

17 THE COURT: That's the same as what you caveated?

18 MS. MENNINGER: Yes.

19 MS. STERNHEIM: Yes, Judge. That's when I said that
20 we would make sure that we were finished so that we could go
21 right into the closings.

22 MS. MOE: Your Honor, on that score, I did not realize
23 that that was the same witness we were talking about this
24 morning. If they were aware of this witness yesterday, that
25 name was not on the witness list provided to the government,

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1 there weren't any 26.2 materials disclosed.

2 So I think, from that record, they're aware of who
3 this person was, they were planning on calling them on Monday,
4 and had still not disclosed to the government they were
5 planning to call this person or who they were.

6 Just to echo our concern from this morning about why
7 we're hearing about this so late and why the case would be held
8 over for a late disclosed witness --

9 THE COURT: What was the government's understanding of
10 what they were referring to for Monday?

11 MS. MOE: We didn't know. And we were confused about
12 the issue related to the person who had asked for anonymity who
13 was a plainclothes police officer in the United Kingdom. So
14 when defense referred to a witness potentially from the United
15 Kingdom, that's what we thought that was referring to. We did
16 not realize that was a reference to someone who had not been
17 disclosed to the government.

18 MR. EVERDELL: Your Honor, I believe the way the
19 sequence worked, there was a different witness from the U.K.
20 that, days ago, we said we might need to call, and anticipated
21 Monday because of the number of witnesses we thought we were
22 going to call. That is somebody different.

23 Then, as we were talking about it, I believe the other
24 day, I said there may be another short witness on Monday. I
25 was referring to the same witness. We hadn't given the name of

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1 that person because, at that point, we were still trying to
2 gather the information to see if he could be a witness. I
3 didn't -- there was nothing to disclose at that point because
4 we were still working this out to make sure we had this person
5 lined up and they would be a witness with relevant admissible
6 information.

7 His 26.2 material would be a one-page or maybe a
8 two-page declaration, which could be reviewed in 10 minutes, so
9 I don't think that's an issue. The name of the person is sort
10 of irrelevant. We said it was going to be a witness -- sorry,
11 your Honor. And I believe the Court did say, I'm looking at
12 the transcript on page 25 --

13 THE COURT: This is from yesterday?

14 MR. EVERDELL: Yes, it's from December 16th, so that
15 is yesterday, at page 2534, I had said, I think if we went over
16 in the morning, even if we had this one witness, it would be
17 very brief, so we could have almost a full day on Monday. The
18 Court responds okay. So finishing tomorrow or a very short
19 witness on Monday means closings on Monday and then a charge to
20 the jury. Okay, I'll permit that, so long as it does not
21 interfere with that schedule.

22 So we were on the assumption that we could get this --

23 THE COURT: I didn't know until now that that --
24 something in the course of the conversation, my memory of it is
25 that it was Ms. Menninger who noted that there was one small

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1 thing that needed to be do on Monday. I didn't understand
2 until this moment that that was the same person who you've
3 raised this morning as a witness regarding Ms. Maxwell -- the
4 timing of Ms. Maxwell's residence at the Kinnerton address.

5 MR. EVERDELL: Yes. And I'm sorry I wasn't clear
6 about that, your Honor. I think there has been a lot going on,
7 but I apologize about that. That was who I was referring to
8 there because the other person who we had put the name on the
9 witness list who is from the U.K., we had decided not to call
10 that person before yesterday. It was this one that I was
11 referring to. And I can even give the name now so we're not
12 talking about an anonymous person.

13 MS. MOE: Yes, your Honor. As I stand here, I still
14 don't know who this person's name was and it hasn't been
15 produced and the defense is out of witnesses. I think this is
16 the definition of a delayed disclosure. We're at the
17 conclusion of the defense's case and I'm learning for the first
18 time the name of this witness. I still haven't received their
19 26.2 material. And it's clear the defense has been on notice
20 of --

21 MR. EVERDELL: It's not true at all. We did not know
22 about this witness until yesterday. His name is Kevin Moran,
23 and he is the owner of the Nags Head Pub across the street from
24 44 Kinnerton Street. We did not know about him until very,
25 very recently. I'll have to get the exact time. It was within

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1 the last day or two that we knew this about this person. And
2 we actually had to confirm that he had relevant information
3 before I proffered him as a witness in this case. And now
4 we've been able to do that and that's the one when, yesterday,
5 at the end of the day, I told the Court that we may have one
6 additional witness, that's who I was referring to.

7 Your Honor, actually, I'm sorry. It was yesterday
8 because this issue came up after the property issue was
9 discussed earlier in the day, and we felt like we had to find
10 somebody who could establish her residency at 44 Kinnerton
11 instead of just her ownership. We were able to find
12 Mr. Moran.

13 THE COURT: I mean, again, I find it amusing, somehow.
14 The government moved to preclude the ownership documents on
15 Kinnerton.

16 MR. EVERDELL: I understand the Court's ruling and if
17 that's the basis --

18 THE COURT: I'm letting it in. I'm letting it. I
19 queried the relevance of it because it was ownership, not
20 residence, but I'm letting it in because I think you persuaded
21 me that you can argue the inference of residence from
22 ownership.

23 MR. EVERDELL: And, your Honor -- I'm sorry.

24 THE COURT: Just -- all along, I gather that was what
25 the defense intended to do, to establish timing of residence;

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1 correct?

2 MR. EVERDELL: That's right, your Honor.

3 THE COURT: You didn't see a need to find other
4 witnesses regarding --

5 MR. EVERDELL: And the reason why we had to is because
6 that is what we were planning to do all along, to show when she
7 was at that place.

8 However, when we litigated this issue and discussed it
9 yesterday, the Court -- the government raised the deposition
10 transcript from the defendant who said, in sort of an offhand
11 way, if you read the transcript, '92, '93 was when I was there.
12 Then it became an issue of when she was actually residing there
13 as opposed to when she owned it. We thought if the stipulation
14 was going to have to involve that testimony, as well, we then
15 now needed a witness, because the facts we believe to be true
16 was that she was not only -- did not own it until then, she was
17 not there, she did not reside there, she wasn't renting it.
18 There was another couple that was in that house living there
19 until she owned it, purchased it, and then owned it, and then
20 moved in.

21 THE COURT: So really, this is a new -- let me see if
22 I get this right.

23 MR. EVERDELL: Your Honor, if I can add one more
24 thing. She had another residence in London prior to the
25 Kinnerton Street residence.

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1 THE COURT: And that's in the record; right?

2 MR. EVERDELL: We're going to have to add that as part
3 of the stipulation. We have the land registry records for that
4 residence now, as well, showing her ownership of that
5 residence, but we still want to be able to counter what I think
6 is an incorrect inference to the jury that she wasn't there.
7 Yes, I understand there is a deposition where she made an
8 offhand reference and got the years wrong, but we now have a
9 witness who can actually say what we believe to be true, which
10 is that she wasn't living there either until she owned it.

11 THE COURT: And sometimes details are off.

12 MR. EVERDELL: And she may have in that deposition
13 gotten the place wrong because she had the prior place in
14 London, and Stanhope Mews was the name of the street. At that
15 time in '92, '93, she owned that place. So she may have gotten
16 the place wrong in the deposition.

17 So what I think it sets up is a misleading --
18 factually misleading impression for the jury based on an
19 offhand deposition transcript quote, one line from a 2019
20 deposition where it's not exactly clear which residence she may
21 be referring to in the first place.

22 And this is an important point for the defense, your
23 Honor. We feel like --

24 THE COURT: Let me just make sure, because all of
25 this, all of this is impeachment of a witness who says that

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1 Ms. Maxwell lived at the Kinnerton residence at a particular
2 time.

3 MR. EVERDELL: That's right. She testified that the
4 events that she testified to in the U.K., the events of sexual
5 conduct -- contact with Jeffrey Epstein took place in the
6 Kinnerton Street address. She even identified the photo of the
7 house with the red door across from the Nags Head Pub, which is
8 the 44 Kinnerton Street --

9 THE COURT: It was an interesting moment during the
10 cross that focused on the pub across the street. I remember
11 thinking, huh, I wonder if they have a witness from the pub
12 across the street. I actually did. You know what, you were
13 thinking the same thing, too.

14 MR. EVERDELL: Well, no, your Honor. What we were
15 thinking is we wanted to make sure, because that witness had
16 said on different occasions to the government that the events
17 took place in the apartment across from the Nags Head Pub, that
18 was one time, but she also said it happened at a Kensington
19 address, which, by the way, is not Belgravia, it's somewhere
20 else in London. It's nearby, but it's next door, it's several
21 subway tube stops away. So we weren't sure she was going to
22 say it was the Kensington address or it was the Belgravia
23 address at Kinnerton Street. She committed to the Belgravia.

24 THE COURT: What date was that?

25 MR. EVERDELL: What date was what?

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1 THE COURT: That testimony that she committed to the
2 Kinnerton.

3 MR. EVERDELL: She had said two different things in
4 the 302s to the government.

5 THE COURT: I'm talking about at trial.

6 MR. EVERDELL: What day was in the trial transcript?

7 THE COURT: Yes.

8 MR. EVERDELL: I think Kate testified on 12/6, your
9 Honor.

10 MS. MOE: It was Monday of last week, your Honor.

11 MR. EVERDELL: Yes. And in order to counter that, we
12 thought we were just going to use the property records.

13 THE COURT: Right.

14 MR. EVERDELL: But because then the government raised
15 the issue of the deposition testimony, which we weren't
16 anticipating, which we think is misleading, because we think
17 that is factually inaccurate, we thought, well, okay, now we
18 better get somebody who can testify about her actual residency
19 there. That's why we scrambled to find Mr. Moran, who we now
20 have.

21 THE COURT: From the pub across the street?

22 MR. EVERDELL: Yes.

23 THE COURT: Isn't that funny.

24 MS. MOE: Your Honor, just a few things in response.

25 The first is the defense now has property records for

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1 the second address, it had not been disclosed to the
2 government. So we're now having a Friday afternoon, at the
3 conclusion of the defense case, mini trial about properties in
4 London, when all of this could have been anticipated long ago.

5 I think what defense counsel has said about mixing up
6 addresses is, it's very telling because, it appears to be that
7 their explanation for Ms. Maxwell's deposition testimony is
8 that she mixed up two properties, and that shows that extremely
9 marginal relevance, if any, of impeachment value for Kate's
10 testimony because there doesn't appear to be any dispute that
11 Ms. Maxwell was living in that area of London during the
12 relevant time and defense counsel can't have it both ways.
13 They can't say Ms. Maxwell easily confused two properties.

14 THE COURT: Sure they can. Everybody does that.

15 MS. MOE: My point, your Honor, is the relevance. If
16 the view is it's easy to mix up two houses, what's the
17 relevance of going down this rabbit hole of two different
18 properties in London and records at this late stage, especially
19 given the late disclosure to the government and our inability
20 to look into this or respond to it. It's such a sideshow at
21 such a late hour. This could have been teed up much earlier.

22 MR. EVERDELL: I don't know how this could have been
23 considered a sideshow. This shows that what the witness
24 testified to was a factual impossibility.

25 THE COURT: Just like Ms. Maxwell's testimony that she

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1 lived there from '92 to '93; right? In fact, your argument is
2 it's a factual impossibility that she lived there in '92, '93?

3 MR. EVERDELL: I'm saying the witness is mistaken
4 based on the property records, yes, your Honor.

5 MS. MOE: Just like Ms. Maxwell, your Honor. That's
6 why this is such a sideshow.

7 THE COURT: Look, I always say, I have so many bridges
8 to across, I cross the bridge that's in front of me. So what
9 is the question?

10 MR. EVERDELL: Well, so, there are, I think, a few
11 questions. We still have to confer on the stipulation to the
12 Kinnerton Street records. We are going to propose being able
13 to admit the land registry records showing the transfer of
14 title of both the Kinnerton Street residence and the Stanhope
15 Mews residence. Those are both land registry documents. And
16 by the way, your Honor, those are selfauthenticating because
17 they came from the land registry and they are
18 selfauthenticating foreign public documents. Those can be
19 admitted just by themselves, but we want a stipulation to the
20 fact that they reflect certain information. And I think what
21 the Court said is if we're going to be permitted to admit
22 those, the defense should be able to permit -- sorry. The
23 prosecution should be able to admit that deposition testimony
24 from when Ms. Maxwell said '92, '93.

25 So we have to --

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1 THE COURT: Look, is there a basis for the government
2 not to admit the testimony?

3 MR. EVERDELL: Well, I think, your Honor, it's -- one
4 moment, your Honor.

5 Your Honor, the government, as we discussed, provided
6 that last week to us. So it's new information for us that we
7 had to respond to. She was never shown these documents. And
8 it was during the deposition. I mean, she was never shown the
9 registry records of the property records. If you own houses
10 and there is already evidence --

11 THE COURT: I don't know.

12 MR. EVERDELL: I don't know either, your Honor, but I
13 imagine if you own several places over the years, as
14 Ms. Maxwell has, there is evidence in the record that she was
15 living in different places over different years, many different
16 places. You might not recall right off the top of your head
17 the exact years that you lived at some address unless you can
18 refresh your recollection. And it's also possible that if
19 you're being asked a vague question in a deposition and you had
20 two different addresses in London, you may assume they're
21 talking about one and not the other, and you may answer the
22 years you lived in the other address instead of the one we're
23 actually talking about today.

24 THE COURT: If we get a stip on the two addresses, the
25 two property records coming in and the depo coming in, then I

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1 think both sides argue what they want from it; right?

2 MR. EVERDELL: I think that's right. All I heard was
3 from the government is that they're now going to object to the
4 other property records, the Stanhope Mews property records,
5 which we were just getting today because we're trying to deal
6 with this issue that came up. We got them from the land
7 registry. I'm happy to show them to the government.

8 THE COURT: You say they came up. The whole point of
9 this is you want to impeach the witness's testimony as to which
10 residence it was; right? That's the whole point of this?

11 MR. EVERDELL: That's correct.

12 THE COURT: So let me just ask, if there is a stip as
13 to the two different property ownership records and the depo
14 testimony coming in, is there a need for an additional witness?
15 Is the defense still seeking an additional witness on Monday
16 that delays trial?

17 MR. EVERDELL: Your Honor, I think we need to just
18 confer on that one moment.

19 THE COURT: Sure.

20 MR. EVERDELL: Your Honor, yes, because at that point,
21 even though the sides could argue both sides, we feel like we
22 need additional factual development to be able to counter the
23 government's argument that she didn't reside there based on the
24 deposition testimony.

25 THE COURT: And when did you get the depo?

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1 MR. EVERDELL: I can't remember when the government
2 produced the depo to us.

3 MS. MOE: Your Honor, on Friday evening, the defense
4 produced the Kinnerton Street records to the government. The
5 next day, we produced the deposition in which Ms. Maxwell made
6 that statement. Of course, it's Ms. Maxwell's own deposition
7 and it's also a public record.

8 THE COURT: Right. I mean, it comes in. I don't see
9 any basis it doesn't come in. The question is --

10 MS. MOE: Your Honor, with respect to the deposition,
11 just so the record is clear, it's only being offered to rebut
12 this last minute registry issue. There is no -- to the extent
13 defense counsel is arguing they need to call this witness to
14 rebut an inference from the government, I want to be clear it's
15 only because the defense is putting this at issue. We would be
16 happy to just rest here and not make this an issue at all. The
17 reason that there is a purported need for this is, again,
18 because the defense is inviting this issue at this late hour.

19 MR. EVERDELL: Your Honor, if the government is
20 willing to stip to just putting in the property records showing
21 the title ownership without the deposition transcript, we're
22 willing to do that, we won't need the extra witness. If
23 they're going to put in the deposition transcript and make that
24 an issue, we feel like we need the other witness to be able to
25 counter that.

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1 THE COURT: Well, you'll discuss it and when I come
2 back, you'll tell me, both sides, what the application is.

3 What do we have after lunch?

4 MR. EVERDELL: Your Honor, I think we would like to
5 use the lunch break to hammer out the final stipulations. If
6 we can have extra time to get that done, I think that's going
7 to be it, is the reading of the stipulations. There are some
8 documents, but these are things we have to go through over the
9 break.

10 THE COURT: So basically no other defense witnesses
11 are available today following stips. And then the open
12 question, is the defense seeking to have potentially this
13 rebuttal, rebuttal, rebuttal on points, the witness regarding
14 timing of residence on Monday. I don't know when even if the
15 defense's application -- I did ask for a proposed order because
16 I don't --

17 MS. MENNINGER: It was sent, your Honor.

18 THE COURT: I mean, the question is, to what end.

19 MR. EVERDELL: Yes. Why don't we see about the
20 conferral, we'll see how that process goes and maybe it won't
21 be an issue, your Honor.

22 THE COURT: You'll confer on that. I don't know if
23 there is a conferral to be had on the Kelly issue, because I'm
24 going to spend my remaining lunch hour looking at this
25 material. Seems to me, best case scenario is if I agree with

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1 the order, it goes to the marshals and then what? She's not
2 produced today, she's not produced Monday, then what?

3 MS. MENNINGER: I think, your Honor, our intent would
4 be if she's not produced by Monday morning, then, you know, we
5 don't have time. But given that it's 1:30 and there is a lunch
6 break, so that's 2:30, it's two and a half hours with a break
7 in there of continuance for purposes of trying to get the
8 witness's appearance.

9 THE COURT: I'll look at the materials.

10 Anything else?

11 MS. MOE: Not from the government, your Honor. Thank
12 you.

13 THE COURT: Anything else?

14 MR. EVERDELL: No, your Honor. Thank you.

15 THE COURT: It will be a long break for the jury, but
16 we'll resume in 45. Okay?

17 MS. MOE: Yes, your Honor.

18 MS. MENNINGER: Your Honor, if we had time to work on
19 these stipulations, an hour might make sense, but only if the
20 government's available to meet.

21 THE COURT: I'll give you an hour. It just means the
22 jury is sitting there for an hour and a half at this point.

23 All right. I'll meet with you in an hour, 2:30.

24 I'm sorry. One more thing. Ms. Sternheim, when we
25 return from lunch, I would intend to allocute Ms. Maxwell on

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1 her right to testify or not testify.

2 MS. STERNHEIM: Yes. Thank you.

3 (Recess)

4 (Continued on next page)

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1 A F T E R N O O N S E S S I O N

2 3:15 P.M.

3 THE COURT: Okay. We have a few things to take up.

4 Ms. Comey.

5 MS. COMEY: Yes, your Honor. We appreciate the
6 Court's indulgence. We've reached a number of stipulations,
7 and I believe we'll be able to finish the case this afternoon
8 as a result. So we very much appreciate the Court's patience
9 with the parties.10 There is one issue that I believe the defense still
11 wanted to raise that we were not able to reach agreement on. I
12 would propose that we have that argument now and then,
13 depending on the result of that, I think we can proceed to wrap
14 the case up.

15 THE COURT: Okay. All right.

16 How long will the reading of stipps take?

17 MS. COMEY: Ten to 15 minutes, your Honor.

18 THE COURT: Oh, okay. So I didn't know if we were
19 talking an hour, in which case my suggestion was going to be
20 let's do that and then give the jury a break and then finish,
21 but okay. I'll hear the issue.

22 Ms. Menninger.

23 MS. MENNINGER: Thank you, your Honor.

24 As your Honor is aware from prior proceedings in this
25 trial, one of the facts about which there is dispute involves

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1 the date on which Jeffrey Epstein began living at 9 East 71st
2 Street. Jane contended that she went to only one home over the
3 years, she was 14, 15, and 16. Those are the years 1994
4 through 1996.

5 We ask the Court to take judicial notice of several
6 documents under Federal Rule of Evidence 201. These relate to
7 a case in this district, in this courthouse, United States
8 District Court for the Southern District of New York. The case
9 number is 96 CV 8307, Denny Chin was the presiding judge, now
10 Second Circuit justice. It was United States of America --

11 THE COURT: Just a judge. Second Circuit judge.
12 You've given him an early promotion.

13 MS. MENNINGER: If you could let him know.

14 *United States of America v. Jeffrey Epstein and Ivan*
15 *Fisher.* It was an action brought by the U.S. Attorney's Office
16 for the Southern District of New York. They were the party in
17 interest -- they were the lawyers representing the United
18 States of America in that proceeding, so the same Southern
19 District of New York office.

20 In that proceeding, the questions -- Mr. Epstein's
21 prior residence at East 69th Street was leased from the U.S.
22 Government, who had taken possession of it after -- from the
23 government of Iran. And he began a lease in that residence in
24 1992.

25 The contention in the litigation was that he had

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1 abandoned living in East 69th in or about January of 1996.
2 Then he leased it to Mr. Fisher, who was a codefendant in the
3 case. And then the U.S. Government sought to evict Mr. Fisher.
4 So both Mr. Epstein and Mr. Fisher were the defendants in the
5 action.

6 There were, on behalf of Mr. Epstein, two answers
7 filed in the case, answer to cross-claims. These are docket
8 entry numbers 15 and 45 from that action. In the first
9 paragraph of those two answers, Mr. Epstein admitted that in or
10 about January 1996, he vacated the premises, the premises being
11 East 69th Street. And then subsequent to that, other events
12 happened.

13 In an opinion in docket entry 46, Judge Chin issued an
14 opinion, and he made a finding of fact that Epstein and his
15 family continued to reside at the premises, East 69th, until
16 January of 1996, at which time Epstein abandoned. So that is
17 an opinion and two answers that we seek to admit under Federal
18 Rule of Evidence 201, judicial notice.

19 Under the terms of that, your Honor, it is, I believe,
20 a fact that can be judicially noticed. 201(f) describes what
21 instructions are given to the jury in the event that it is
22 criminally noticed; and in a criminal case, the jury is to be
23 instructed that it may or may not accept the noticed fact as
24 conclusive. I'm not intending or offering the full documents
25 that I just cited to your Honor, but the fact of Mr. Epstein's

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1 admission that he vacated East 69th in or about January '96,
2 and then Judge Chin's decision making that finding of fact.

3 There is one other document from that docket that we
4 seek to admit, but under a separate rule of evidence,
5 804(b)(1). There was actually a deposition transcript from
6 Mr. Epstein in which he is asked -- and it was taken by the
7 U.S. Attorney's Office for the Southern District of New York.
8 And he was asked in that deposition, Is it correct that you
9 moved from the premises -- meaning East 69th -- to 9 East 71st
10 Street in or around the beginning of '96?

11 And Mr. Epstein responded, You asked me that question
12 three times. I believe it is around then, but I don't know
13 exactly when.

14 This deposition excerpt was appended to a pleading
15 that was submitted by the U.S. Attorney's Office in support of
16 their case at docket number 52. So I believe that one is
17 admissible under 804(b)(1), the deposition transcript.

18 THE COURT: Okay. One at a time, Mr. Rohrbach.

19 MR. ROHRBACH: Yes, your Honor.

20 I will go through each of the documents, but just as a
21 substantive point, this is very much like the 44 Kinnerton
22 Street issues we've been talking about.

23 And substantively --

24 THE COURT: Microphone.

25 MR. ROHRBACH: This is very much like the 44 Kinnerton

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1 Street documents we've been talking about, in that the legal
2 documents describing when Mr. Epstein abandoned this property
3 does not reflect where Mr. Epstein was living. As the defense
4 knows, one of the defense witnesses, who they ultimately
5 decided not to call, would have testified that Epstein was
6 living on East 71st Street prior to 1996.

7 And so if the Court admits this -- this is the reason
8 this has to go first in the remaining issues. If the Court
9 admits this, the government would put on rebuttal evidence
10 showing that, in fact, Mr. Epstein lived on 71st Street before
11 he says he abandoned the property in 1996.

12 So that's sort of a substantive background point.

13 Moving through the documents, your Honor, Judge Chin's
14 opinion is a summary judgment opinion. So I think it's quite
15 clear actually that the facts can reasonably be disputed. The
16 summary judgment standard, as the Court well knows, is that the
17 Court -- is that Judge Chin had to take all facts in the light
18 most favorable to the nonmoving party, which in this case was
19 not the United States. So I think it very much can be
20 controverted that the fact in -- the statement in the
21 background section of Judge Chin's opinion is not a factual
22 finding about when Mr. Epstein abandoned --

23 THE COURT: Can I see it?

24 MS. MENNINGER: What's that, your Honor?

25 THE COURT: Can I see the document?

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1 MS. MENNINGER: Oh, yes, your Honor. I apologize. I
2 have copies for the Court, and I gave a copy to the government.

3 THE COURT: Okay.

4 MR. ROHRBACH: Judge Chin sets out the summary
5 judgment standard on page 12.

6 THE COURT: Yes.

7 Do you want to respond to the summary judgment point?

8 So 201(b), the Court may judicially notice a fact that
9 is not subject to reasonable dispute.

10 MS. MENNINGER: This was the government's motion for
11 summary judgment; and it was Mr. Epstein's admission that
12 that's when he vacated the premises. So I don't think that --
13 in terms of that's why I think that you need to take both the
14 answers and the summary judgment together, rather than trying
15 to introduce one or the other. It was the government's
16 position that he abandoned in January of '96, and he admitted
17 that.

18 MR. ROHRBACH: The defense is not offering any of
19 these documents which contain the government's position, your
20 Honor.

21 MS. MENNINGER: That's not true.

22 Docket entry 52 is a submission by the government.

23 MR. ROHRBACH: I apologize. I'm talking about the
24 summary judgment opinion and the answers, but not the
25 government's claims, which is not a document -- I'll speak --

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1 the letter, I think, is a sort of separate matter than the
2 summary judgment opinion and the answers. Those are ones where
3 all we have is a summary judgment opinion. We don't know what
4 the basis was for it. And we have some answers to cross-claims
5 in which Mr. Epstein asserts some facts to which we don't know
6 what the question was.

7 And I suppose this brings me to the broader point
8 which applies to the letter and Epstein deposition as well,
9 which is that this was not a material fact in that litigation;
10 and so there was no reason for the government to litigate when
11 Mr. Epstein, in fact, lived in and was occupying the particular
12 residences.

13 What mattered in that litigation is that at some point
14 in early 1996, Mr. Epstein made an attempt to do an illegal
15 sublet of the property; and so the government was suing for
16 ejectment and back rent from Mr. Epstein. But it did not
17 matter to the government whether Mr. Epstein abandoned the
18 property in January 1996, December 1995, November 1995. There
19 was no reason for that to be litigated in the course of that
20 litigation. It just mattered that he abandoned the property
21 before he tried to do the illegal sublet. That's why it's in
22 the background section of Judge Chin's opinion; that's why it's
23 not a significant portion of any of the other documents. There
24 is absolutely no reason to take judicial notice of it. And
25 actually for the same reason, it's not subject to the 804

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1 hearsay exception.

2 MS. MENNINGER: That's not true, your Honor.

3 In this litigation, one of the central issues that the
4 government -- this same office -- put forth is that
5 Mr. Epstein's abandoning that property was in violation of the
6 lease, which kept him -- which he needed to reside in the
7 residence under the terms of the lease. So it was a central
8 fact. It was admitted by Mr. Epstein. It was put forth in
9 their claims against him, and that is all covered in the
10 summary judgment motion. It was admitted on an answer. It was
11 the only admission on that point. And then it was testified to
12 in a deposition. So I don't think that saying it was not an
13 issue in the case can possibly withstand scrutiny when you look
14 at all of these.

15 Also, the factual background about the witness that
16 they said that they would call to dispute this, we've
17 interviewed this witness, and his testimony is not at all in
18 contradiction to this. He was hired in December of '95. He
19 said Mr. Epstein wasn't living there for the first three weeks
20 that he was hired in December of '95, and took possession in
21 early '96. So I don't think there is a basis to call a
22 rebuttal witness to dispute these documents, all of which are
23 covered both by 201, as well as 804(b)(1).

24 MR. ROHRBACH: That's not accurate about this witness.

25 But as a general point, there's no question that if

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1 they offered evidence like this, the government can and will
2 call rebuttal witnesses to testify about occupancy.

3 As to the point about whether this is a material fact,
4 it was material that Mr. Epstein stopped living at some point
5 in the 69th Street home. It was not material the precise date
6 on which he stopped living there, much less whether he had
7 started spending his nights living on 71st Street at some point
8 prior to that.

9 THE COURT: All right.

10 Do you want to indicate which documents by mark you're
11 seeking admission?

12 MS. MENNINGER: Yes, your Honor.

13 THE COURT: Forgive me if you said them before, I'm
14 not sure.

15 MS. MENNINGER: That's okay.

16 Z-9 is the first answer. That was docket entry number
17 15.

18 THE COURT: Okay.

19 MS. MENNINGER: And it would be the first paragraph.

20 The same is true of Z-10, first paragraph.

21 With respect to Z-7, that's the opinion. The fact is
22 contained on page 4 in the first full paragraph, first
23 sentence.

24 And then with respect to Z-8, your Honor, it's towards
25 the back of the document. It's paginated page 45 of 53, that's

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1 where the deposition excerpt was contained.

2 THE COURT: Okay.

3 MS. MENNINGER: And it's on that page 45. It's the
4 first question on that page.

5 THE COURT: All right.

6 I'm sustaining the objection. 201(a) has not been
7 sufficiently established, in light of the posture of the
8 litigation and what was materially in dispute.

9 What's next?

10 MS. MENNINGER: With respect to 804(b)(1), your Honor,
11 for the deposition excerpt for Mr. Epstein.

12 THE COURT: Okay. Okay. Mr. Rohrbach.

13 MR. ROHRBACH: It is the same objection here, your
14 Honor. Since this is a question about a fact that was the
15 precise -- sorry, let me --

16 THE COURT: It's not the same.

17 MR. ROHRBACH: It's not exactly the same. But let's
18 look at the language of 804, which is, in order for it to be
19 offered against a party, the party has to have had an
20 opportunity and similar motive to develop it.

21 The government's motive in developing this fact is
22 completely different than it was in the civil litigation. The
23 government's motive here is to determine where Mr. Epstein
24 personally lived. The government's motive in this deposition
25 was to determine whether he had moved -- whatever that means --

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1 from one residence to another one by a certain date in order to
2 advance their claims about ejectment and back rent.

3 MS. MENNINGER: In the answer itself, Mr. Epstein
4 says, You asked me that question three times. And the question
5 was, Is it correct that you moved from the premises to 9 East
6 71st in or around the beginning of 1996?

7 That's the exact question --

8 THE COURT: What was the response?

9 MS. MENNINGER: You asked me that question three
10 times. I believe it is around then, but I don't know exactly
11 when.

12 And the position of Jane was that he was living there
13 in 1994. So I think under 401, it is a question of whether
14 that's relevant. It is certainly different than the
15 testimony --

16 THE COURT: The fact that it was asked three times is
17 the argument that it -- contrary to my immediately prior
18 ruling, that there was a motive to develop it?

19 MS. MENNINGER: There was motive to develop it, your
20 Honor. That was the whole point of this litigation. I mean, I
21 can offer the complaint as well, but it's in the summary
22 judgment ruling.

23 THE COURT: Okay.

24 For the same reason, it's sustained.

25 What else?

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1 MR. ROHRBACH: Nothing else on this from the
2 government, your Honor.

3 MS. COMEY: In that case, your Honor, I think that we
4 have a number of stipulations to finalize, and then I think we
5 will be ready to bring the jury back out, and it should take
6 about 10 or 15 minutes, at which point I think the presentation
7 of evidence will be complete.

8 THE COURT: Okay. So I got the note, just for the
9 record, the withdrawal of the request to issue an arrest
10 warrant for the witness Kelly, who hasn't responded to the
11 subpoena.

12 MS. MENNINGER: Yes, your Honor. Part of the
13 discussions are that we would wrap up today.

14 THE COURT: I know. But you sent my chambers an
15 email. Is that application withdrawn?

16 MS. MENNINGER: Yes, your Honor.

17 THE COURT: To be clear, which application is that?

18 MS. MENNINGER: The application to have the marshals
19 arrest Kelly Bovino for nonappearance on her subpoena.

20 THE COURT: Okay. We are working out a resolution of
21 issues that would also not necessitate the witness from London
22 on Monday?

23 MS. COMEY: That's exactly right, your Honor.

24 THE COURT: Okay.

25 MS. COMEY: And it would mean that there would be no

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1 government rebuttal case as well.

2 THE COURT: And no government rebuttal.

3 MS. COMEY: No government rebuttal case.

4 THE COURT: Okay.

5 MS. COMEY: The parties have reached consensus to end
6 the case.

7 THE COURT: Okay. All right.

8 While you're working, Ms. Sternheim, are you ready for
9 the allocution?

10 MS. STERNHEIM: I am.

11 THE COURT: Okay.

12 I'll ask Ms. Maxwell and Ms. Sternheim to stand.

13 Ms. Maxwell, I want to make sure you understand that
14 you have the right to testify in your own defense. You also
15 have the right not to testify.

16 If you decide not to testify, I will instruct the jury
17 that they may not draw any inference against you based on that
18 decision, and that fact may not enter into their deliberations.

19 I want to make sure that you know that the decision
20 whether to testify or not is your decision. You are entitled
21 to the best advice of your attorneys in making this decision,
22 but the decision is yours.

23 Ms. Maxwell, do you understand that?

24 THE DEFENDANT: Your Honor, the government has not
25 proven its case beyond a reasonable doubt; and so there is no

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1 need for me to testify.

2 THE COURT: All right.

3 Ms. Sternheim, have you discussed the issue with your
4 client?

5 MS. STERNHEIM: Yes, we have.

6 THE COURT: And you've advised her that it is her
7 decision?

8 MS. STERNHEIM: Yes, we have.

9 THE COURT: She's just indicated that her decision is
10 not to testify; is that correct?

11 MS. STERNHEIM: That is correct.

12 THE COURT: Ms. Maxwell, that is correct?

13 THE DEFENDANT: Your Honor, that is correct.

14 THE COURT: Thank you.

15 You may be seated.

16 MS. STERNHEIM: Thank you.

17 THE COURT: All right. Five minutes?

18 MS. COMEY: Yes, please, your Honor.

19 THE COURT: Okay.

20 (Recess)

21 THE COURT: Counsel, are you ready?

22 MS. COMEY: Yes, your Honor.

23 THE COURT: On the defense?

24 MR. EVERDELL: Yes, your Honor.

25 THE COURT: Okay. One thought for Monday. I'm going

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1 to tell the jury to be here at 9, rather than 9:30. We'll take
2 as much advantage of the day as we can.

3 MS. STERNHEIM: Your Honor, the government and I had
4 spoken about this. And if it's amenable to the Court -- they
5 haven't spoken yet, but we can talk about this after.

6 THE COURT: Okay. Fair enough. Thank you.

7 All right. We'll bring in the jury.

8 MS. COMEY: Yes. Thank you, your Honor.

9 MS. STERNHEIM: We were going to suggest also
10 beginning at 9. And whether the Court would inquire of the
11 jury if they would be willing to stay a little later so that we
12 can complete everything on Monday.

13 THE COURT: Okay. You don't mean extended time for
14 deliberations, you mean the closings.

15 MS. STERNHEIM: No, I mean to do the closing
16 arguments.

17 THE COURT: You pushed it off. Yes.

18 MS. STERNHEIM: Closing arguments, rebuttal, charge.

19 THE COURT: And what's your best estimate?

20 We'll do a shortened lunch too, because we presumably
21 won't have issues to work through.

22 MS. COMEY: Your Honor, we estimate that the summation
23 argument for Ms. Moe will be between two and three hours. My
24 rebuttal, it's hard to estimate. I doubt it would be more than
25 45 minutes at most.

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1 THE COURT: And the defense.

2 MS. STERNHEIM: It would not exceed the government's
3 main closing argument, and hopefully would be shorter.

4 THE COURT: Okay. It will be tight.

5 So I'll tell them that we'll start at 9, and that they
6 should prepare for the possibility of being kept until 5:30?

7 MS. STERNHEIM: We had proposed 6 o'clock.

8 THE COURT: Okay.

9 MS. COMEY: Obviously, your Honor, we will strive for
10 efficiency in our arguments.

11 THE COURT: Yes. Okay.

12 I will say that. I need to give them an opportunity
13 to let Ms. Williams know if that's not possible. I don't know
14 if somebody has childcare responsibilities or the like.

15 MS. STERNHEIM: Understood.

16 That's why we wanted to raise it with you now.

17 MS. COMEY: Yes, your Honor.

18 THE COURT: All right. Thank you.

19 Bring in the jury.

20 (Jury present)

21 THE COURT: Members of the jury, thank you so much for
22 your patience. I greatly appreciate it.

23 Mr. Everdell, you may proceed.

24 MR. EVERDELL: Thank you, your Honor.

25 Your Honor, at this time the parties have a number of

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1 stipulations that we would like to read for the jury.

2 THE COURT: Go ahead.

3 MR. EVERDELL: The first is an oral stipulation
4 between the parties, and I would like to have Ms. Comey read
5 that one out to the jury.

6 THE COURT: Okay.

7 MS. COMEY: Thank you, your Honor.

8 The parties have hereby stipulated and agreed that
9 Government Exhibits 52-K, 52-J, and 52-L are redacted excerpts
10 of what has been marked for identification as Government
11 Exhibit 52. And the government would offer those three
12 exhibits, 52-K, J, and L under seal to protect the privacy of
13 third parties.

14 MR. EVERDELL: And without waiving our prior
15 objections, no objection, your Honor.

16 THE COURT: All right. 52-K, 52-J, and 52-L are
17 admitted under temporary seal for me to consider limited
18 redactions.

19 MS. COMEY: Yes, your Honor. Thank you.

20 (Government's Exhibits 52-J, 52-K, 52-L received in
21 evidence)

22 MR. EVERDELL: Your Honor, we have another oral
23 stipulation agreed to by the parties.

24 The parties hereby stipulate and agree that Annie
25 Farmer's boots were seized by the FBI on June 29th, 2021.

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1 THE COURT: Okay. Thank you.

2 MR. EVERDELL: We have another oral stipulation.

3 The parties hereby stipulate and agree that Mike
4 Wallace's date of birth is May 9th, 1918.

5 THE COURT: Thank you.

6 MR. EVERDELL: We have one more oral stipulation.

7 The parties hereby stipulate and agree that *The Lion*
8 *King*, the Broadway musical, opened in previews at the New
9 Amsterdam Theater in New York City on October 15th, 1997, with
10 the official opening on November 13th, 1997.

11 THE COURT: Okay.

12 MR. EVERDELL: And your Honor, we have some written
13 stipulations now, which I would like to read to the jury.

14 THE COURT: Okay.

15 MR. EVERDELL: First, it is hereby stipulated and
16 agreed by and among the United States of America, by Damian
17 Williams, United States Attorney for the Southern District of
18 New York, and Maurene Comey, Alison Moe, Laura Pomerantz, and
19 Andrew Rohrbach, Assistant United States Attorneys, of counsel,
20 and defendant Ghislaine Maxwell, by and with the consent of her
21 attorneys, Christian Everdell, Esquire, Laura Menninger,
22 Esquire, Jeffrey Pagliuca, Esquire, and Bobbi Sternheim,
23 Esquire, that:

24 The witness referred to as Kate and her counsel
25 attended a meeting with the government prosecutors on September

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3rd, 2021. At that meeting, Kate's counsel provided the government prosecutors with a partially completed visa application for a U visa, and asked to discuss Kate's visa status.

It is further stipulated and agreed that this stipulation marked as Defense Exhibit A-1 may be received in evidence at trial. It's dated today's date, signed by the parties.

(Continued on next page)

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1 MS. COMEY: No objection, your Honor.

2 THE COURT: A-1 is admitted.

3 (Defendant's Exhibit A-1 received in evidence)

4 MR. EVERDELL: Your Honor, I now have A2.

5 THE COURT: And you could you skip the preface and
6 say, between the parties.

7 MR. EVERDELL: Sure, your Honor.

8 THE COURT: Thank you.

9 MR. EVERDELL: It is hereby stipulated and agreed by
10 and among the parties that, if recalled as a witness, Dominique
11 Hyppolite would testify as follows: The Palm Beach County
12 school maintains school records in the ordinary course of
13 business.

14 The document marked Defense Exhibits DH1, DH2, and DH3
15 are each a true and accurate copy of Palm Beach County school
16 records for Virginia Robertson.

17 The document marked Defendant's Exhibit J2 is a true
18 and accurate copy of Palm Beach County school records for the
19 witness identified as Jane.

20 It is further stipulated and agreed that Defense
21 Exhibits DH1, DH2, DH3, and J2, and this stipulation marked as
22 Defense Exhibit DH4, may be received in evidence at trial.

23 And it's dated today's date, signed by the parties.

24 MS. COMEY: No objection. The government would
25 request that Exhibit J2 be accepted under seal consistent with

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1 the Court's prior order.

2 THE COURT: DH1, DH2, DH3, and DH4 are admitted. J2
3 is admitted under seal with the opportunity to propose a narrow
4 redaction.

5 (Defendant's Exhibits DH1, DH2, DH3, DH4, J2 received
6 in evidence)

7 MR. EVERDELL: That's correct, your Honor. And I have
8 copies for the Court if you want me to hand those up now.

9 THE COURT: It's okay. I'll take them after.

10 MR. EVERDELL: Yes, your Honor.

11 We have A5 now, your Honor.

12 THE COURT: Okay.

13 MR. EVERDELL: It is hereby stipulated and agreed by
14 and among the parties that the HM Land Registry is the
15 governmental authority in the United Kingdom that maintains
16 official public records relating to the ownership of land and
17 property located in the United Kingdom.

18 Defense Exhibit MG12 are documents relating to the
19 property located at 69 Stanhope Mews East, London SQ75QT,
20 United Kingdom, that were retrieved from the HM Land Registry
21 on March 26th, 2021.

22 Defense Exhibit MG1 are documents related to the
23 property located at 44 Kinnerton Street, London, SW1XHES,
24 United Kingdom, that were retrieved from the HM Land Registry
25 on December 13th, 2021.

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1 Pages 1 to 3 of defense Exhibit MG12 is a true and
2 accurate copy of the HM Land Registry official public record
3 dated January 21st, 1994, confirming the registered ownership
4 of Ghislaine Noelle Marion Maxwell as of November 11th, 1988 of
5 the property located at 69 Stanhope Mews East, London, SQ75QT,
6 United Kingdom.

7 Pages 4 to 6 of Defense Exhibit MG12 is a true and
8 accurate copy of the HM Land Registry official public record,
9 dated April 24th, 1995, confirming the registered ownership of
10 Anthony John Jets as of April 4th, 1995, of the property
11 located at 69 Stanhope Mews East, London, SQ75QT, United
12 Kingdom, after ownership of said property by Ghislaine Noelle
13 Marion Maxwell.

14 Pages 1 to 2 of Defense Exhibit MG1 is a true and
15 accurate copy of the HM Land Registry official public record,
16 dated March 20th, 1997, confirming the registered ownership of
17 Ghislaine Noelle Marion Maxwell as of March 20th, 1997, of the
18 property located at 44 Kinnerton Street, London, Southwest
19 1XATS, United Kingdom.

20 Pages 3 to 4 of Defense Exhibit MG1 is a true and
21 accurate copy of the HM Land Registry official public record
22 dated December 15th, 1992, confirming the registered ownership
23 of John Gerard O'Neal and Nessa O'Neal, as of June 30th, 1986,
24 of the property located at 44 Kinnerton Street, London
25 SW1XEHES, United Kingdom, before ownership of said property by

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1 Ghislaine Noelle Marion Maxwell.

2 It is further stipulated and agreed that Government
3 Exhibit 610A is a fair and accurate copy of selected pages from
4 a transcript of a deposition of Ghislaine Maxwell on April 9th,
5 2019.

6 It is further stipulated and agreed that Defense
7 Exhibit MG12, Defense Exhibit MG1, Government Exhibit 610A, and
8 this stipulation marked as Defense Exhibit A5 may be received
9 in evidence at trial. It's dated with today's date and signed
10 by the parties.

11 MS. COMEY: No objection, your Honor.

12 THE COURT: Great. Defense MG12, MG1, and A5 are
13 admitted, and GX610A is admitted.

14 (Defendant's Exhibits MG12, MG1, A5 received in
15 evidence)

16 (Government's Exhibit 610A received in evidence)

17 MR. EVERDELL: Correct, your Honor.

18 I believe this is the final stipulation, A6, your
19 Honor.

20 THE COURT: Go ahead. Thank you, Mr. Everdell.

21 MR. EVERDELL: It is hereby stipulated and agreed by
22 and among the parties that on August 17th, 2021, Robert
23 Glassman, counsel for the witness testifying using the
24 pseudonym Jane, spoke by phone with a prosecutor in this case.
25 The notes of the call reflect that Glassman stated that before

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1 the government charged the case, Jane had discussed with
2 Glassman whether to cooperate with the case, and during those
3 conversations, Glassman had advised Jane to cooperate, and
4 discussed with Jane that cooperating with the case was the
5 morally right thing to do, and they had discussed how
6 testifying at trial was the right thing to do. Glassman also
7 mentioned that Glassman had told Jane it would, quote, help her
8 case, unquote.

9 It is further stipulated and agreed that this
10 stipulation, marked as Defense Exhibit A6, may be received in
11 evidence at trial. And it's dated with today's date, signed by
12 the parties.

13 MS. COMEY: No objection.

14 THE COURT: A6 is admitted.

15 (Defendant's Exhibit A6 received in evidence)

16 MR. EVERDELL: May I have a moment, your Honor?

17 THE COURT: You may.

18 MR. EVERDELL: Your Honor, those are all the
19 stipulations.

20 THE COURT: Go ahead, Ms. Sternheim.

21 MS. STERNHEIM: Thank you, Judge. At this time, the
22 defense rests.

23 THE COURT: Ms. Comey.

24 MS. COMEY: The government has no further case, your
25 Honor.

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1 THE COURT: All right. Thank you.

2 Members of the jury, that closes the evidence portion
3 of the trial.

4 Let me tell you what comes next.

5 Closing arguments are summation by the parties. Both
6 sides will have an opportunity to summarize for you their view
7 of the evidence in the case and the arguments they wish you to
8 consider. Following that, I'll instruct you as to the law that
9 you'll follow during your deliberations and then you'll begin
10 your deliberations.

11 Monday, I'm going to ask that we start at 9:00 a.m.
12 instead of 9:30. And I want you -- I believe we'll finish at
13 our normal time, but there is a possibility that, just to get
14 through what we need to do on Monday, we may go a little bit
15 later. So I'm going to ask you to arrange to be here as late
16 as 6:00 p.m. If that is a problem, on your way out tonight,
17 let Ms. Williams know, and we won't do that. I want to stick
18 to my promise to the schedule, but if everybody is able to stay
19 as late as 6:00 on Monday, that might help us ensure that we
20 can get done what we want to do in one day.

21 So again, Monday, 9:00 a.m., the parties will do their
22 closing arguments, their summations, then I'll instruct you as
23 to the law, and then the deliberations will begin.

24 So 9:00 a.m. on Monday. If staying until 6:00 on
25 Monday is a hardship, please let Ms. Williams know on your way

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1 out and we'll end at our normal time.

2 I'm going to let you go for the weekend and the day
3 given where we are in the trial.

4 I want to just take a couple moments to really
5 emphasize how important it is, of course, that you continue to
6 follow all of my instructions. Even though we're at this
7 different phase of the case, no communications with each other
8 or anyone else through any means about the case. No consuming
9 any information about the case through any means. Continue to
10 keep an open mind until you hear the summation -- the closing
11 arguments of the parties, my instructions as to the law, and
12 you begin your deliberations as a jury. It's vitally important
13 that those rules continue to be followed all the way through.

14 I'm very grateful for your patience today and
15 throughout. I wish you a very good and safe weekend. Please
16 be cautious out there. I want to see everybody back here
17 Monday at 9:00. And I hope you have a wonderful weekend.
18 Thank you.

19 (Continued on next page)

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1 (Jury not present)

2 THE COURT: Matters to take up. Oh, the charge, I bet
3 you're curious. I want to give it just one more read. I
4 haven't had time to do that today given the issues that
5 occupied the lunch break. I would say by 6:00 p.m., you'll
6 have a copy of my draft charge and the draft verdict sheet and
7 we'll meet at 9:00 a.m. here for the charging conference
8 tomorrow.

9 MS. MOE: Thank you, your Honor.

10 Just on a separate housekeeping matter, your Honor, I
11 just wanted to flag, given the number of issues we're trying to
12 streamline and resolve today and yesterday, we haven't had a
13 chance yet to discuss logistics for closing, but we want to
14 make sure we iron that out so we make sure we're ready to go on
15 Monday morning. I wanted to flag that we'll confer this
16 evening to make sure we're on the same page on logistics and
17 screens and the like.

18 Would the Court prefer that we reach out about a
19 proposal about how that should be arranged? I want to make
20 sure we're not causing any delay on Monday morning.

21 THE COURT: I mean, I think confer with the court
22 staff to make sure you have what you need. Only if there is a
23 dispute do you need to raise it with me.

24 MS. MOE: Is there anyone in particular within the
25 courthouse staff we should reach out to about logistics?

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1 THE COURT: Start with Ms. Williams. I guess it
2 depends what it is. We'll have some staff here tomorrow for
3 the charging conference, but Ms. Williams will be reachable no
4 matter what over the weekend and she can direct traffic.

5 MS. MOE: Thank you very much, your Honor. Just
6 wanted to work that out in advance.

7 THE COURT: Thank you.

8 MS. STERNHEIM: Judge, at this time, we would
9 reiterate and renew our motion pursuant to Rule 29.

10 THE COURT: With that reservation, we can proceed to
11 the charging conference.

12 Anything else to take up?

13 MS. MOE: Not from the government, your Honor. Thank
14 you.

15 MR. EVERDELL: Not from the defense, your Honor.

16 THE COURT: I thank everyone. I'll see everyone at
17 9:00. You'll get the charge as soon as I can, but by 6:00.

18 (Adjourned to December 18, 2021 at 9:00 a.m.)

19 * * *

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1 DEFENDANT EXHIBITS

2 Exhibit No.	Received
3 662-RR	2652
4 A-1	2728
5 DH1, DH2, DH3, DH4, J2	2729
6 MG12, MG1, A5	2731
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10 GOVERNMENT EXHIBITS

11 Exhibit No.	Received
12 52-J, 52-K, 52-L	2725
13 610A	2731